plant and equipment geared to the export market or in developing an export business.

(4) They help us earn the foreign exchange we need to finance purchases of foreign crude oil needed to produce fuels for domestic consumption and to keep American refineries in operation. It is clearly preferable to export products containing the value added component of domestic refining rather than to reduce imports of the foreign crude oil from which the exported products are refined.

(5) They encourage close energy interrelationships with Canada and Mexico the countries which receive the bulk of our exports of petroleum products and from both of which we import substantially greater quantities of hydrocarbon fuels than we export to them.

The licenses authorizing shipment of one million barrels of No. 2 fuel oil and one million barrels of kerosene to Iran were issued under the previously described section of the Export Administration regulations providing for the licensing of exports of petroleum products outside the quota system for overriding foreign policy and/or national security reasons. The requisite determination that there were overriding foreign policy reasons for approving the licenses was made by the Secretary of State in consultation with the Secretary of Defense, and the Secretary of Commerce was apprised thereof by letter. State's recommendation was based in part on the very substantial imports of Iranian crude oil by the refiner and the United States as a whole. The Department of Defense urged prompt approval of the request because the vessels carrying the products to Iran were scheduled to return loaded with naphtha which the exporter would use to make jet fuel for DOD use. The Secretary of Energy also recommended approval of the licenses and, in addition, confirmed to Commerce that the President had approved the proposed transaction.

Under the regulations, an applicant for a license to export petroleum products is required to file a formal application showing the identity of the exporter, the identity of the consignee, the country of ultimate destination, the quantity to be shipped, a description of the commodity, the unit price, the total price, and the end use of the commodity covered by the application. Additionally, the applicant is required to furnish:

(1) A copy of the contract of sale to a foreign buyer or an affidavit explaining the lack of such written contract and the circumstances of the sale;

(2) an affidavit as to the amount, if any, previously exported against the contract;

(3) an affidavit assuring that the products to be exported were not derived from a Naval Petroleum Reserve resource; and

(4) an affidavit stating either that the exporter is the refiner of the petroleum products, or that the export will be reported to the refiner—who must be identified—for purposes of adjustment of the refiner's volume of crude oil runs to stills as reported to the Department of Energy. (The purpose of this last affidavit is to assure that the cost of producing the exported products will not be reduced through the receipt of entitlements benefits on the crude oil from which they are refined.)

All these documentary requirements were met by the applicant who, additionally, was required to and did provide written assurances:

(1) that the company's supply of middle distillates to its domestic customers will not be adversely affected by the export, and

(2) that if a shortage develops, the exporter will purchase on the international spot market and import an equivalent quantity of No. 2 fuel oil and/or kerosene without claiming the $5 per barrel distillate entitlement.

These assurances, together with the applicant's agreement to accept an entitlements penalty on the exported products, were made specific conditions to the issuance of the license.

Normally, the identity of the exporter, the identity of the consignee, and various other details of the transaction would be subject to the confidentiality provisions of Section 7(c) of the Export Administration Act, as amended. In this instance, however, the exporter, Amerada Hess Corporation, has authorized us to release the details of the transaction.

The price at which the products were sold was not a criterion in the licensing decision. That price was a commercial decision arrived at by the exporter in negotiation with the purchaser without any participation by the U.S. Government. Mr. Leon Hess, Chairman, Amerada Hess Corporation, has informed us since issuance of the licenses that the price charged the National Iranian Oil Company for the No. 2 fuel oil was the identical f.o.b. Virgin Islands price charged his domestic customers for the same product plus marine transportation. Mr. Hess has further explained that Amerada Hess does not normally sell kerosene to any customers. The question of price arose because a Commerce staff member noted a difference between the f.o.b. Virgin Islands price charged by Amerada Hess in this transaction and the recent Rotterdam and New York spot prices for No. 2 fuel oil. Because of the existence of Department of Energy price regulations applicable to these products, and without attempting to calculate marine transport costs between these various ports, Commerce raised the issue during consideration of the applications to assist the Department of Energy in determining whether the transaction was in accord with that Department's price regulations.

The question of availability abroad was also not a criterion in the licensing decision under the applicable regulations. It was raised by Commerce in order to enable the concerned departments to take all possible relevant factors into account in formulating their recommendations.

The possibility of military use of the products was also raised by Commerce and was dealt with in the Under Secretary of State's letter recommending approval of the license. The Department of State advised Commerce that military use was unlikely based on the finding that adequate supplies of jet fuel and diesel oil for military transportation were already available in Iran.

In order to avoid any impact of the export on domestic supplies, before issuance of the license the applicant's assurance was obtained in writing that its supply of the products involved to its domestic customers would not be adversely affected by the export. As previously noted, this assurance was made a specific condition to issuance of the licenses.

As required by Commerce regulations, the applicant also certified that the export would be reported to the Department of Energy for adjustment of the applicant's crude oil runs to stills. This procedure assured that the cost of producing the exported products would not be reduced through the receipt of entitlement benefits on the crude oil from which they were refined. This undertaking was also made a specific condition to issuance of the licenses.

The issuance of the licenses on August 3 was reported in the Commerce Department's daily licensing list published for that date.●

SENATE—*Tuesday, November 13, 1979*

(Legislative day of Monday, November 5, 1979)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by Hon. DAVID PRYOR, a Senator from the State of Arkansas.

PRAYER

Rabbi Max A. Shapiro, Temple Israel, Minneapolis, Minn., offered the following prayer:

Let us pray.

It is written—

And the Lord said, I will bless thee and make thy name great and be thou a blessing.—Genesis 12: 2.

Heavenly Father, though often we do not express it, we thank You that we have been so richly blessed—

Blessed with a land of plenty;

Blessed with a heritage of freedom and justice;

Blessed with a people creative and purposeful.

We thank You that our name has been made great;

That ours is a haven that many seek;

That ours is a hope to which many aspire;

That ours is a strength for which others wish.

And we pray that this land of ours may ever prosper, and that it will always be a blessing—

A home for the homeless;

A champion for righteousness;

A defender of humaneness and liberty;

And that somehow through us there will emerge a world—

Untroubled by war;

Unvexed by fear;

Untrammeled by hunger;

Unfettered by cruelty;

A world where justice and freedom, compassion and opportunity will always prevail.

May it be so, O Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 13, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID PRYOR, a Sen-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ator from the State of Arkansas, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is now recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

IRAN

Mr. ROBERT C. BYRD. Mr. President, I strongly support the action taken by President Carter to cut off the purchase of any oil from Iran for delivery to this country.

This policy deserves the support of all Americans, and I am confident that the American people will be united in their support for the President's decision and will be willing to make the necessary sacrifices to uphold this action.

For the moment our primary concern continues to be the safety and well-being of our countrymen who are being held hostage in Tehran.

But in taking this action, we are making clear that this country will not submit to international blackmail, that we will not allow the oil weapon to be used against us.

Those who are supposed to be providing leadership in Iran have abdicated their responsibilities under international law. The United States must in no way be dependent upon a nation which condones the use of terrorism and extortion.

The loss of the oil from Iran will undoubtedly have some impact on the supplies in this country, but I am certain that we have the resolve to overcome whatever difficulties may result.

The administration also acted correctly in ordering immigration authorities to locate and institute deportation proceedings against Iranian students who are in this country illegally. There is strong evidence that many of those who have been active in agitation and demonstrations in this country have no legal status here.

These actions taken by the President are appropriate. They are firm but restrained measures. The administration is trying every feasible means of obtaining the release of the hostages in the U.S. Embassy in Tehran. The American people should stand behind our Government as it continues its efforts to obtain freedom for those being held hostage.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair. I am going to take just about 2 minutes, and then I am going to yield the remainder of my time under the standing order to the distinguished junior Senator from Connecticut. But before I do that I wish to make a brief statement.

THE IRANIAN SITUATION

Mr. BAKER. Mr. President, I join with the majority leader in expressing my congratulations to the President and to his administration for the action they took this past weekend in respect to Iran.

I have traveled extensively in this country in the last few days, and I can report that I have seldom found as much anguish, anxiety, and anger among American citizens as I find over the situation in Iran.

I have steadfastly taken the position that I will not try to second-guess the President, and indeed I will support the President in his efforts to negotiate the safe recovery of the American hostages in the Embassy compound in Tehran.

I believe the President's action on yesterday will be widely supported by the people of the United States. I believe that any reasonable action he chooses to take in the future to gain the release of these hostages and to assert the vital interests of the United States will be strongly supported by the American people. In the present crisis, the President has a rare opportunity to exercise the leadership of which the country believes him capable.

So, Mr. President, I wish him well. I support him unreservedly in what he has done, and will support in advance all such reasonable steps to try to gain the release of these Americans and further our Nation's security interests.

(The following proceedings occurred later and are printed at this point by unanimous consent:)

PRESIDENT'S ACTIONS ON IRAN

Mr. STEVENS. Mr. President, the President has announced that he is taking two actions relating to the crisis in Iran. First, he has ordered the Department of Justice to deport any Iranians found to be in violation of our immigration laws. Second, and most important, is his action halting the importation of Iranian oil.

The crisis in Iran has enlightened us in many ways. Editorialists around the country have commented on the significance of the recent events. As I have stated in previous remarks, our utmost concern is for the Americans who are currently being held hostage. Yet there is one obvious lesson to be learned from this unfortunate crisis and that is how important it must be for us to become energy self-sufficient.

We cannot continue to suffer at the hands of countries who attempt to influence our foreign policy by holding a barrel of oil under our noses. I have said this countless times—we must break from this stranglehold once and for all by investing the time and money needed to step-up the domestic production of oil and gas.

To me, the key lies within my State of Alaska. There, if developed in a manner which might satisfy environmental concerns, we could produce the energy this country so desperately requires. It can be done. It is within the power of the administration to do it. The administration only need say the word to lease Alaska lands for oil and gas production.

No new Federal oil and gas lease has been issued in Alaska since 1965, despite the fact that of all the lands owned by the United States one-half of the U.S. public domain is in my State of Alaska.

So I say it should be given serious thought. Recent legislation will set us in the right direction, but we still have a long, long way to go to achieve energy independence, and the key to the independence is the State of Alaska.

Mr. HUDDLESTON. Mr. President, I commend the statement and wish to be associated with the remarks made by the distinguished Senator from Alaska.

I do not dispute his assertion that Alaska is a key to correcting our energy shortfall at the present time, but I wish to assert also that my State of Kentucky and other States that have large deposits of coal have a very crucial role to play in solving our energy problem.

We are moving forward in this Congress to bring about a greater utilization of coal which is probably the best way in the short term to compensate for the reduction in our supply of oil.

We have developed a synthetics fuel approach, in the Senate at least, and hopefully that will continue through Congress and will become part of a national policy.

But more important for the short term is the question of converting to coal facilities that are now using oil and natural gas. There is a significant effort going on.

I see, I believe, signs that the administration and the Department of Energy are now more concerned about this and more interested in bringing about actual conversions. We have provided incentives in legislation that was finally acted upon here in the Chamber last Friday, the Interior and related agencies appropriation bill, to encourage the conversion processes.

This military construction appropriations bill which is on the floor today calls upon the Department of Defense, the one agency that has the security of this country as its major mission, to analyze its facilities and determine where coal might be substituted for the oil and gas they are using.

We expect them to do that and come back next year with a more comprehensive plan to bring about these conversions and help reduce our dependence on oil.

Mr. STEVENS. Mr. President, will the Senator yield right there?

Mr. HUDDLESTON. Yes.

Mr. STEVENS. I might say I am delighted to hear the Senator point out the provisions of the bill concerning coal conversion on our military installations.

When I first went to Alaska the five major bases in Alaska all used coal. They were converted to gas and to oil over the last few years, and I think that was unfortunate because we have, whether the Senator realizes it or not, enough coal in Alaska to sustain the United States if we used only coal pro-

duced in Alaska alone to meet projected needs for 100 years.

We are also a coal State and will some day, I hope, restore the coal production in my State.

But when I was a young attorney in Alaska, I represented a portion of the coal industry there. Today, there is only one major operating coal mine. In those days there were literally dozens. But the rush to convert to gas and to oil was such that we have lost our productive capacity for coal, and I hope that the Department of Defense will move rapidly to convert to coal not only in Alaska but throughout the United States as well. They could set the pace and as the demand picks up from the military installations I am certain that that will assist in reducing the price, as a matter of fact, or at least stabilizing the price for coal produced domestically, particularly in the area of the military installation.

Mr. HUDDLESTON. I think that is entirely likely.

I should point out that these conversions not only cut down on our need for oil but they also effect a substantial savings in energy cost to the military installation so that the cost of converting is recouped in a relatively short period of time.

I think it is important that we encourage not only all Government installations, but also the private sector to reduce the amount of oil that is burned in major utilities and in major industrial boilers around the country.

I join with the Senator from Alaska in commending the President on the decision that he has made regarding our importation of oil from Iran.

I think it is important to remove this one item from the bargaining table to demonstrate very conclusively that we will not be blackmailed either politically or economically in our efforts to uphold international principles and to secure the release of the hostages in the American Embassy in Iran.

(Conclusion of proceedings which occurred later.)

Mr. BAKER. Mr. President, I yield the remainder of my time to the Senator from Connecticut.

Mr. WEICKER. I thank the distinguished minority leader and I join with him in the remarks that he made.

Mr. President, I commend the President for the action that he took yesterday. It is the first time that any leader of any branch of Government in these United States has said no during the course of this continuing energy crisis, which has now developed into the crisis which envelops the American Embassy personnel in Tehran.

The point I wish to make here this morning is that the steps called for by the President, followed to their logical conclusion, will require real sacrifice by every American, a sacrifice that heretofore the leadership of this country in the House of Representatives, the Senate, the executive branch of Government, and the Republican and Democratic parties have been unwilling to ask of the American people.

The sacrifice is obviously going to take place in the amount of gasoline available to the American public for its pleasure driving. It inevitably is going to have to lead to some form of rationing, and not one person that I have talked to has been unwilling to engage in that kind of mandatory conservation if indeed it means the safety of those Americans in Tehran and if indeed it means that the United States once and for all will unhook itself from this addiction to Mideastern oil which has led us to the present impasse.

I have heard all sorts of speculations in the media and by persons around this country that we can make up the shortfall in oil on the spot market; that we can get extra production from Saudi Arabia; that we can actually get Iranian oil, but it would come through our friends in Western Europe.

I want to make it clear here on the floor that I hope we make up this shortfall in no other way except conservation, rationing, mandatory rationing of pleasure driving in this country.

Nobody on the streets is complaining, but there is and long has been a political sensitivity and willingness to take the hard but necessary steps to get us out of these problems.

We, both those in the U.S. Senate and Americans on the streets of this Nation, are every bit as much hostage to Iran, to the ayatollah, as those in the compound. Those who said, in commenting on the President's action, that really it does not amount to anything, do not know what they are talking about. It amounts to everything. It will prove to the world that we have a resolve.

For 6 years now we have thrown out our chests and said that we are the greatest Nation in the world, making macho comments one after another about the power of the United States and not taking one single action to back up those words until yesterday afternoon when the President spoke.

I have had my disagreements with the administration; I still have my disagreements with the administration. But now is the time for the U.S. Senate to take the lead, along with the President, in asking for the politically unpopular.

An article appeared in the Washington Post last week describing the popgun response of Congress toward our energy difficulties. Everything in the world had been done and asked for except that which touches upon the American people. Now the problem comes home to roost finally, and it is with us, and it is with the American people.

I hope, Mr. President, that we will not leave it to the man in the White House to draw the political flak so far as the conservation program and mandatory rationing scheme are concerned, but that we take that on our shoulders and we put it into place so that when the difficulties manifest themselves—and they will, with the shortfall that is going to be created here—the Nation will be prepared and the sacrifice will be borne not by the poor, not by the elderly, not by those on fixed incomes, but placed fairly on the shoulders of all Americans. In that way we end our captivity both to Iran and to the nations that comprise the OPEC cartel.

In no other way, not by rhetoric, not by energy mobilization boards, not by synfuels corporations, but by each American participating through his lifestyle in the words that went forth yesterday, "No, no." That is what is required of each one of us; that is what will free a nation and, more particularly, its representatives in Tehran.

I yield the floor.

RECOGNITION OF SENATOR SCHMITT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico (Mr. SCHMITT) is recognized for not to exceed 15 minutes.

ENERGY INDEPENDENCE

Mr. SCHMITT. Mr. President, on this question of energy independence, it is to be hoped that the President's decision to stop importing Iranian oil will be the catalyst for a return to true independence in energy supply by this country. We, in the Senate and in the other body, can do our part now by setting aside those legislative proposals whose net effect will be to further discourage domestic oil and gas exploration and production.

We can also go to work to provide the incentives for conservation, the leadership for conservation, which must go hand in hand with increased domestic production.

In addition, we can go to work to repeal a stream of laws and regulations, laws and regulations that are not only unnecessary in this crisis but which have gotten us into this mess to begin with.

The most significant inhibitor to new domestic oil production will be the tax on production that now masquerades under the name of a "windfall profits tax."

This tax will not only take away needed domestic exploration and production capital and add greatly to the cost of energy to the consumer but it stands a good chance of decimating this country's independent oil and gas finders and producers. These independents find 80 percent of our domestic crude oil and can find much, much more if they are not taxed out of business.

I urge my colleagues, I urge the Congress, to take a second look at this massive new tax on the American consumer. Remember the big oil companies do not pay taxes; they only collect taxes on production through higher prices at the pumps. The independents must take this new tax out of revenues at the wellhead, and thus lose both capital and investors.

(The following proceedings occurred during Mr. SCHMITT's remarks:)

Mr. SCHMITT. Mr. President, I yield to the distinguished leadership for a unanimous-consent request and ask that it not interrupt the sequence of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from New Mexico for his courtesy and kindness on yielding. I ask unanimous consent that his statement not show an interruption in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF S. 1724 AND H.R. 3919

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the military construction appropriations bill the Senate proceed to the consideration of Calendar Order No. 396, S. 1724, and proceed to third reading with that bill, set it aside, and then proceed to the consideration of Calendar Order No. 421, H.R. 3919.

Mr. BAKER. Mr. President, reserving the right to object—and I will not—the purpose of the reservation is to announce that the majority leader and I have conferred at some length on a procedure to address this problem. This appears to be a satisfactory way to handle the matter since there are two bills dealing with the same subject. It has been cleared on our side, and we have no objection to that procedure.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, if the Senator will yield, it is sometimes better not only to have the numbers read but the subjects read, since many Senators and staffs are listening through squawk boxes and are not familiar with the numbers.

Mr. BAKER. Mr. President, the matter we are dealing with here is the two bills on windfall profits. One bill was reported from the Labor and Human Resources Committee and one from the Finance Committee, and there has been a failure of understanding for some time on which one of those bills would come up first.

The procedure that we have just arranged provides for the Labor and Human Resources bill to be considered first and taken to third reading, then set aside while we proceed to the consideration of Calendar Order No. 421, which is the Finance Committee bill. I expect that some of the provisions of S. 1724, the Labor and Human Resources bill, will probably be offered as amendments to the Finance Committee bill, and thus present to the Senate one opportunity to deal with both measures.

I agree with the Senator from New Mexico it is better to explain that in some detail it is to deal just with the numbers as they appear on the Calendar. It is a good suggestion, and one I will follow in the future.

Mr. SCHMITT. I do thank the distinguished Senator from Tennessee for that explanation. I wish they would just set aside all of these tax bills, particularly in the light of what has been occurring in Iran. But, apparently, that is not the sentiment nor the will of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I again thank the distinguished Senator for his courtesy in yielding.

Will the Senator allow us just to proceed 1 minute longer?

Mr. SCHMITT. I will be happy to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. I appreciate The Senator's thoughtfulness and consideration.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 436, Senate Resolution 265, the resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to S. 1724.

Mr. BAKER. Mr. President, reserving the right to object, this budget waiver was accompanied by a report which requires the action now being sought by the majority leader, that is, a waiver of the 3-day rule. Ordinarily a budget waiver, under these circumstances, is not accompanied by a report and would not require this action. With that in view, I consulted with the representatives of the Budget Committee to determine whether or not they wish to avail themselves of the opportunities afforded by the 3-day rule. They do not. We have no other objections noted. It is on that basis, then, and to provide for the consideration of this measure with the budget waiver disposed of, that I will agree to this request.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration. The resolution will be stated.

The second assistant legislative clerk read as follows:

Calendar No. 436. Senate Resolution 265 waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1724.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 265) was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1724. Such waiver is necessary because the reported bill authorizes $1,600,000,000 for the fiscal year 1980 for home energy assistance to or on behalf of eligible households to meet the rising costs of home energy.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by May 15, 1979, because the severity in the rise of costs of home energy was not known at that time.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that has been consumed by the distinguished minority leader and myself with respect to these requests, and by the Senate in action on these measures, not be charged against the time of the distinguished Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. I thank the distinguished Senator from New Mexico for permitting us to take care of these housekeeping details at this time.

ENERGY INDEPENDENCE

Mr. SCHMITT. Mr. President, the Energy Mobilization Board, Energy Security Corporations, and the so-called windfall profits tax will not give us the short-term independence we need from foreign supplies. Whatever they may do in theory to solve the long-term problems, they will not prevent near-term crises such as we now face with respect to the Iranian situation. In fact, they will, in my opinion, make such crisis more likely and more difficult.

Once again, I do wish that our colleagues would reconsider the actions that they are taking, which in so many ways will go counter to the achievement of short-term energy independence. I find it somewhat disheartening and discouraging to see us make the kind of statements that have been made here this morning with respect to the Iranian situation, and still proceed to disregard those aspects of our energy economy which could produce us and conserve us out of these particular problems.

THE LABORATORY OF EXPERIENCE—LEGISLATIVE VETO IN STATE LEGISLATURES

Mr. SCHMITT. Mr. President, the Senate will soon be considering the Federal Trade Commission authorization bill. At that time I intend to offer, along with 34 cosponsors, an amendment to allow for legislative review and possible veto of proposed FTC rules if such a veto is warranted. This amendment will restore to the Congress its constitutional responsibility to pass judgment on the law of the land.

The Senate has been slow to recognize the need for a legislative review procedure for proposed FTC rules, but the recent hearings before the Senate Commerce Committee have further indicated to many that this approach is indeed appropriate. There appears to be no other reasonable way to continue the extensive delegation of legislative authority to the FTC under the Magnuson-Moss Act unless the people, through the Congress, are given an opportunity to review the final rulemaking product of the Commission. The alternative is to allow without significant checks and balances a five person nonelected Commission to oversee a rulemaking process which in many respects is equal to the law-making authority to the Congress. Inevitably the Commission has strayed from the path of consensus and begun to dictate to the public the Commission's vision of the public interest. Only the Congress should have the final authority to determine that vision.

This is just what we have witnessed with the FTC, and it is what we might have anticipated from the law-making structure we have created. The problems associated with the Federal Trade Commission in recent months are a direct result of the extension of too much authority into the hands of too few people with no need to answer to the electorate. A structural problem such as this needs a structural solution; short term, "quick-fix", restrictions on specific rule-making, however desirable, will only insure that the Congress will face the same problems again at a later date.

Many of our State legislatures have confronted similar difficulties. Bureaucratic excess is certainly not confined to Washington, and State legislators often face regulations promulgated by well-intentioned public servants which are

entirely inconsistent with legislative intent, constitutional considerations or reasonable policy initiatives. The remedy to this phenomenon on the State level has been the application of legislative review procedures which permit members to examine proposed regulations before they go into effect. In many cases the State review procedures permit corrective action through a legislative veto.

Thirty-five States have evolved a variety of procedures for reviewing proposed rules. The diversity of approaches is impressive, but they all have one thing in common—each of these 35 States has a stronger, more systematic procedure for exercising responsibility over rulemaking than does the U.S. Congress. The nonpartisan National Conference of State Legislatures has documented the experience of the States with legislative review and veto procedures in a booklet entitled "Restoring the Balance." I ask unanimous consent that this booklet be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. SCHMITT. Mr. President, hearings before the Administrative Practices and Procedures Subcommittee of the Committee on the Judiciary last year examined in great detail the experience of the States with the review and veto of regulations. The testimony of these hearings was overwhelmingly favorable as to the effectiveness of these oversight procedures. The charge that the existence of a legislative veto will overburden the Congress with the review of rules was shown to be an imaginary fear, if the experience of the States is any guide. For example, in the 1977 session of the Montana Legislature, approximately 600 administrative rules and regulations were promulgated and reviewed. Only five veto resolutions were introduced and only two of these were enacted. The experience of Montana, with only two vetoes enacted after the review of approximately 600 regulations was not unique; all of the States reported that the veto was used sparingly but was an effective means of insuring responsible rulemaking activity.

The Counsel for the Committee on Administrative Rules in the Michigan State Legislature, which reviews proposed regulations, maintained that just the existence of the review committee increased legislative authority over the agencies. I feel certain that this would be the case on the Federal level as well.

Mr. President, there are many other States with particularly effective procedures for reviewing proposed rules.

Oklahoma has a procedure which allows either house of the legislature to overturn a proposed rule with the passage of a simple resolution.

The Louisiana Legislature requires that proposed rules be submitted to the appropriate standing committee which may recommend that the rule be modified.

West Virginia has developed a procedure which allows a joint committee of six members from each house to overturn a regulation. The legislature may, by resolution, reverse the committee's disapproval, but the rule remains suspended unless the legislature acts.

The Idaho Legislature requires that all rules must be submitted to the legislature for referral to the appropriate standing committee. Any member may propose a resolution rejecting a rule thought to be in violation of the legislative intent of the statute under which the rule was proposed.

Mr. President, a dozen of our States have found the legislative veto to be exceptionally effective in restraining agency rulemaking, and although their procedures differ, it is clear that they have not had any great difficulties utilizing whatever procedure they have.

Twenty-three other States are using review procedures of varying strength that have also produced desirable results, although they do not include the specific provisions.

On the Federal level we have ample evidence that where the Congress has a legislative veto available it has been used effectively. For example, on September 18 of this year the Senate acted to veto a proposed rule of the Federal Elections Commission. This resolution was passed with a minimum of debate; the veto was exercized with efficiency and effectiveness to look after our interests in the electoral process. In all there are currently over 295 statutes passed since 1933 which contain legislative review or veto provisions. Were this procedure ineffective or unconstitutional, as some critics have charged, we would surely know it by now, through tests in courts. In fact, all such tests have not found, in various ways, that there was a constitutional consideration that should be invoked.

The Congressional Budget Office has supported the contention that a legislative veto procedure applied to the Federal Trade Commission would result in a minimal increase in workload and expense. This analysis indicates that the anticipated cost of reviewing proposed rules would be approximately $500 per rule. Based on the FTC's record of issuing three to five rules a year, we can estimate that the procedure would theoretically cost approximately $2,500. However, since the committee staff is already charged with the duty of reviewing FTC rules for a variety of purposes, there will in all likelihood be no additional cost, and almost certainly no increase in staff.

Mr. President, as I noted previously, the State legislatures have, in effect, done our homework for us. In the crucible of experience they have experimented and found that the legislative review and possible veto of agency regulations has made an important contribution toward restoring a sense of balance to these often competing branches of Government. I am hopeful that here in the island of Washington, where the problems of agency accountability are so much more severe, we will act favorable on the legislative veto amendment to the Federal Trade Commission authorization bill S. 1020. The amendment number is 212. Such action will restore a sense of balance to the operation of that agency and a sense of confidence to the people's perception of the Congress.

EXHIBIT 1

RESTORING THE BALANCE: LEGISLATIVE REVIEW OF ADMINISTRATIVE REGULATIONS

THE NEED FOR LEGISLATIVE REVIEW OF REGULATIONS

The past 50 years have seen the growth of government at all levels. The prevailing philosophy behind this growth was that those problems which could not be solved by individual initiative and private action should be solved by the federal, state and local governments.

This philosophy has resulted in a dramatic growth in the executive branch of government as the branch which must implement the programs designed to solve the problems of society. There are numerous reasons for this growth. However, the main reason is that as legislatures passed laws to solve specific problems, a means of enforcing and implementing these laws was necessary.

Legislatures increasingly granted the power to promulgate regulations to the agencies that were created to enforce and implement new programs. Consequently, the expanding number and size of these agencies began to have an effect on the balance of power between the executive and legislative branches of government. The initial question, whether the agencies had the power to promulgate regulations which had the force of law, has been answered in the affirmative by the courts. Judicial decisions have affirmed the legislature's right to delegate a portion of its legislative power to the agencies for the implementation of complex problems.

As more agencies were created or expanded, the number of regulations promulgated to implement laws increased dramatically. In most states today, the body of law created by the rule-making process matches or exceeds the statutory laws of those states. While it was recognized that agency rulemaking was necessary for the implementation of laws passed by the legislature, one major concern was the increasing number of regulations that either exceeded the statutory authority of the promulgating agencies or violated the legislative intent of the laws.

Legislatures began to respond to these concerns by establishing formal legislative regulation review procedures. These procedures usually provided, at the very least, that proposed regulations be submitted to a designated legislative committee for review to insure that they were technically correct and within the scope of the statuory authority and legislative intent as stated in the legistion. Most of the laws were part of the states' administrative procedures act, which set up procedures for the promulgation of regulations.

Thirty-four states currently have formal legislative regulation review authority. The powers of the legislatures under these laws range from review of certain agencies' rules to repeal of rules by the legislature or a legislative committee.

The 1977 legislative sessions were active in providing legislatures with a role in the review of agency rules and regulations. Nine additional states (Georgia, Illinois, Maine, Nevada, New York, North Carolina, Ohio, Texas and Wyoming) established procedures for legislative regulation review. In three other states (New Mexico, North Dakota and Rhode Island), similar bills were vetoed by the governor. Seven states (Alaska, Connecticut, Kansas, Michigan, Missouri, Montana and South Carolina) amended their laws either to clarify existing review procedures or to provide a greater role for the legislature in the review process. Three state legislatures (Colorado, Louisiana and New York) were unable to override the governor's veto of bills amending the regulation review law, while in Michigan and Alaska, the legislature enacted amendments over the governor's veto.

Since in most instances, agency authority stems directly from the legislature, legislative review of regulations can be used to help insure agency compliance with both statutory authority and legislative intent. There have been cases of agencies deliberately attempting to circumvent statutory authority or legislative intent, and in a number of states basic, provisions of bills defeated by the legislature have subsequently appeared almost verbatim in agency regulations.

The legislative regulation review process allows the legislature to monitor agency action throughout the year. While the legislature already overseas each agency through the appropriations process, the regulation review process gives it another and more continuous monitoring mechanism. As agency regulations are promulgated, they must pass through a formal review procedure, which includes a legislative review. The legislative review may be advisory in nature or it may allow for disapproval or delay of approval of a regulation.

SUMMARY OF RECOMMENDATIONS

In recognition of the need for a legislative regulation review process in each state, the committee makes the following recommendations:

Recommendation No. 1:

Because of the proliferation of agency regulations and the possibility of promulgation of regulations which violate legislative intent or exceed statutory authority, the committee strongly recommends that legislatures establish procedures for reviewing all agency rules and regulations promulgated with the force of law under authority granted by the legislature, whether or not they are covered by the administrative procedures act. These review procedures should be as strong as the constitution of each state allows. In establishing these procedures, legislatures will be reasserting their legislative prerogatives and regaining the basic lawmaking authority granted to them under state constitutions.

Legislatures should also enact comprehensive administrative procedures acts for their states, or review existing laws, to insure a thorough review of all regulations. These procedures, of which the legislative review process should be a key part, should include 1) a clear definition of an agency regulation; 2) a requirement that agencies' regulations clearly show additions to and deletions from existing regulations; 3) a requirement that all proposed regulations be published in advance of their effectiveness; and 4) a requirement that all regulations be filed with the legislature as provided by the legislative regulation review procedures. The procedures should allow maximum opportunity for public comment both in the promulgation and adoption of regulations as well as in the legislative review process.

To assist legislatures in establishing effective procedures for the legislative review of regulations, the committee makes the following additional recommendations:

Recommendation No. 2:

After considering the alternative regulation review structures, the committee recommends that a single joint committee, empowered to meet year-round, be designated or established to perform the regulation review function. The committee should include members representing both houses. Legislatures may also wish to reconsider including representation from the major substantive standing committees on the review committee.

Recommendation No. 3:

Recognizing the difference in state constitutions and judicial interpretations, the committee recommends that the strongest possible review structure be created in each state, consistent with the state's constitution.

Recommendation No. 4:

The committee recommends that the committee or committees designated to perform regulation review be adequately staffed by permanent legislative staff, so that review of regulations is effectively accomplished.

Recommendation No. 5:

The committee recommends that the review committee in each state have the authority to review all proposed and preexisting regulations.

Recommendation No. 6:

The committee recommends that reasonable time constraints be imposed on all levels of the regulation review process to provide for adequate review and for expeditious final disposition of regulations by both the committee and the legislature.

Recommendation No. 7:

The committee recommends that procedures be established for the promulgation of emergency regulations, with reasonable time limitations on committee review and on the effectiveness of those regulations to prevent agency circumvention of the legislative review process.

Recommendation No. 8:

The committee recommends that the review committee meet often enough to provide adequate review of proposed regulations which agencies file.

Recommendation No. 9:

The committee recommends that legislative bill drafting and counseling agencies adopt specific guidelines to assure that all bills granting rule-making authority to administrative agencies be reviewed before introduction to assure that (1) legislative intent is clearly spelled out in the bill, and (2) adequate standards are included to guide agencies in rule promulgation pursuant to the bill.

REGULATION REVIEW STRUCTURES

Because of the size of state legislatures, the most effective method of regulation review is through the committee process. The review can generally be divided into three categories: (1) review by substantive standing committees; (2) review by a single joint committee, whether created for that purpose or designated as part of other functions (such as a legislative council); or (3) review by both, with standing committees reviewing during the session and a single joint committee reviewing during the interim.

Standing committee review

Regulation review by standing committees is usually iniated in one of two ways. In some states, the agency submits the proposed regulations to the presiding officers of each house for reference to the appropriate standing committee. In other states, the agency submits the regulations directly to a predesignated committee for each agency. Idaho, South Carolina and Louisiana conduct regulation review through the standing committee structure.

In some states, the standing committees perform a second review of regulations after initial review by a joint review committee. Iowa and Minnesota, for example, use this procedure. In Kentucky, a three-tiered system is used. If the review body, a special joint subcommittee of the Legislative Research Commission, objects to a regulation, the agency then submits it to the appropriate standing committee. If that committee objects, the agency submits it to the full legislature.

The standing committee review procedure allows the committee which reported the bill authorizing the promulgation of regulations to review those regulations for compliance with statutory authority and legislative intent. Since committee members and staff usually have the expertise to deal with complex regulations in their substantive areas, their involvement in the review procedure may be advantageous. This system also allows the workload of review to be spread among all the committees.

One disadvantage of this procedure, however, is the possibility of disagreement between house and senate committees reviewing the same rules. Also, while standing committee members are most familiar with the law authorizing regulations, they may be too subjective in what they feel is the legislative intent, especially if that intent is not clear in the law. A more serious drawback is the fact that most standing committees have a heavy workload during the session and may not be able to handle a high volume of regulations requiring review. Also, standing committees usually meet much less frequently during the interim, when many new regulations are being promulgated.

Joint committee review

The majority of the states with formal regulation review procedures use the single joint committee mechanism. Most of these committees are bipartisan, with either proportional or equal minority representation. Some committees have an equal number of house and senate members while others have more house than senate members.

In some states, the review function is performed by the Legislative Council, the agency which provides all services to the legislature. In Kentucky, the Legislative Research Commission (a joint management body) appoints a three-member regulation review subcommittee composed of at least one member from each house and at least one member of the minority.

One advantage of the joint committee structure is that in nearly all states the committee's primary function is regulation review. It meets fairly regularly, both during the session and during the interim. Another advantage is that the committee acts for the full legislature, not just one house, and makes its recommendations to the full legislature. Unlike the standing committees of each house, the joint committee may be more objective in determining legislative intent from the language of a law.

One disadvantage of this structure is that committee members may have limited knowledge of the substantive areas for which the regulations are promulgated and they may not be familiar with the development of the language of the enabling law which determines legislative intent. Also, there may be the additional cost of staffing the committee, whether with its own full-time staff or with staff from a central staff agency.

STANDING COMMITTEE/JOINT COMMITTEE REVIEW

In a number of states the standing committees review regulations while the legislature is in session and a designated joint interim committee performs the review during the interim. Kansas and Nevada both use this system to some extent. In Kansas, all proposed regulations must be submitted by December 31 of each year to the revisor of statutes. During the session, he refers them to both the Joint Committee on Administrative Rules and Regulations and to the appropriate standing committee. The Colorado legislature recently passed legislation to change from a standing committee/joint committee system to a joint committee review structure, but the bill was vetoed by the governor.

This system combines the advantages of standing committee review with the advantages of interim review by a joint committee.

The major disadvantage is that the review function is split. This may cause a lack of cohesive legislative action and lead to a situation where agencies may wait to promulgate regulations so they can be submitted to the review body which will give the most favorable consideration.

Recommendation No. 2.

After considering the alternative regulation review structures, the committee recommends that a single joint committee, empowered to meet year-round, be designated

or established to perform the regulation review function. The committee should include representation from both houses. Legislatures may also wish to consider including representation from the major substantive standing committees on the review committee.

REGULATION REVIEW POWERS

The powers of the legislative committees charged with the responsibility of reviewing regulations generally fall into four categories: (1) advisory; (2) repeal of a regulation by the legislature; (3) committee suspension for a specified period of time; and (4) committee suspension without required legislative affirmation.

Advisory

In general, legislatures which cannot nullify, suspend, amend or modify a regulation are considered to have only advisory review powers. In most advisory states, the review committee may return regulations to the promulgating agency with recommended changes which the agency is not bound to accept. These advisory committees may recommend to the full legislature that the law authorizing the promulgation of rules be amended, requiring passage of a bill. Arkansas, Missouri and Nebraska are states with advisory review powers only.

Iowa has a regulation review process which is advisory, but which places the burden of proof on the agency once objections to a regulation are raised by the committee. The burden of proof shifts to the agency in any future court action and it must prove it did not violate legislative intent or statutory authority in adopting the regulation over the committee's objection.

Regulation review committees with advisory powers only are less likely to be challenged on constitutional separation of power grounds. This procedure does involve review for compliance with statutory authority and legislative intent and offers a basis for passage of a bill that changes the enabling statute. Also, agencies are usually responsive to committee recommendations and grateful when the committee points out errors in the regulations. The Iowa system, while only advisory, does give the legislature an advantage in a subsequent court action, whether that action is brought by the legislature or by a citizen adversely affected by the regulation. The constitutional separation of powers question is not likely to be raised because the legislature has no power to suspend or nullify.

One disadvantage of the advisory review system is that in most cases the committee has no recourse (except recommending a change in the enabling statute) if an unresponsive agency refuses to accept the committee recommendations. The only other recourse for the legislature is through the judicial system, and in that case, the legislature would have to assume the costs of litigation in challenging agency regulations in court.

Repeal of a regulation by the legislature

In some states, the legislature has the authority to repeal or nullify regulations through the passage of either a bill or resolution. This is usually done upon the recommendation of the reviewing committee. In Georgia, if a repealing resolution is passed by a two-thirds majority of each house, the regulation is nullified. If it is passed by less than a two-thirds majority, the resolution must be submitted to the governor for his signature. In Maine, all new regulations automatically expire in five years unless they are repromulgated.

Regulation repeal procedures give the legislature the power to take affirmative action in the face of agency unwillingness to modify objectionable rules. The primary disadvantage may be the constitutional question of whether the legislature has the authority to nullify a regulation promulgated by an executive branch agency.

Committee suspension for a specified period of time

A third means of reviewing agency regulations is for the committee to have the power to suspend regulations for a specified time, thus delaying or temporarily repealing their effectiveness. Before the specified time has expired, however, the full legislature must affirm the committee's suspension by prescribed means or the regulation goes into effect. Legislative affirmation would permanently nullify the regulations. Minnesota, South Dakota and Wisconsin are states where the committee has the power to suspend regulations subject to the approval of that action by the full legislature within a certain time.

The principal advantage of giving the committee suspension power is that the legislature is able to take immediate action when faced with an agency which refuses to modify objectionable regulations. Also, agencies are more likely to write regulations which are technically correct and in compliance with both statutory authority and legislative intent. And since legislative affirmation is required, arbitrary action by the committee is not possible.

There may be constitutional questions with this structure in two respects. First, there is the issue of whether the legislature even has the the authority to suspend or nullify a regulation promulgated by an executive branch agency. Secondly, there may be a question of the legislature's authority to delegate suspension power to a legislative committee, even though the committee cannot permanently suspend a regulation without a vote of the full legislature.

Another possible disadvantage is the cost to the agency and the public caused by the delay of effectiveness of a regulation. However, most states have procedures for the implementation of emergency regulations on a temporary basis, with legislative review taking place after regulation is in effect.

Committee suspension with required legislative affirmation

The fourth method of review is similar to the third. The committee has the power to suspend or delay the effective date of a regulation for a specified time, but unless the legislature overturns the committee's suspension through positive action, the suspension becomes permanent. Connecticut, Michigan, Tennessee and West Virginia are the only states where this structure exists. Connecticut's law says that the legislature "may" vote to sustain or reverse the committee's suspension, but the lack of positive action sustains the suspension. In Tennessee, the suspension is in effect until rescinded by a joint resolution of the legislature. The Tennessee attorney general, however, has advised the governor that this procedure is unconstitutional.

Again this structure allows the legislature to take action when faced with an unresponsive agency and may encourage agencies to write better regulations which are more likely to conform with statutory authority and legislative intent.

The main disadvantage to this structure is the serious constitutional question of whether the committee can, in effect, nullify a regulation without a vote of the full legislature to sustain that action.

Recommendation No. 3:

Recognizing the difference in state constitutions and judicial interpretations, the committee recommends that the srtongest possible review structure be created in each state, consistent with the state's constitution.

Among the particular considerations which should be reviewed are questions such as the following:

1. How strictly has your state's supreme court interpreted the "separation of powers" clause of your state constitution?

2. How strictly has the court enforced the prohibition against delegating legislative power to the executive? What guidelines have been set forth? How "complete" must a bill be when it leaves the legislature? Excluding local acts and constitutional amendments, can the effectiveness or implementation of a bill be conditioned upon future events after enactment by both houses and approval by the Governor? Do laws delegating rule-making power have to have adequate standards spelled out in the act?

3. Does your constitution specifically detail the "bicameral" principles?

Does bicameralism mean that both houses have to agree on all actions (other than internal rules) taken by that body, or that either house can negate the actions of the other?

4. Is there a constitutional provision in your constitution requiring the approval or veto (or at least presentation to the Governor) of every resolution or order to which the concurrence of both houses may be necessary? If so, how has the court interpreted it? Does your state make a distinction between a concurrent and joint resolution, and for what may each be used?

5. How have your courts ruled on "legislative intent"? Is determination of legislative intent solely a judicial function? Can legislators testify as to legislative intent? In court decisions on statutory construction, are courts bound by statements of legislative purpose, intent, and preambles sometimes found within legislative enactments?

6. Have the courts ruled on the power of a current legislature to determine the legislative intent of a previous body?

7. Do legislative committees have a statutorily-recognized standing? How have courts looked at standing committees—as official entities empowered to take authoritative actions, or as simply internal Subunits of a legislative house, with advisory functions only to the full house? Can they be delegated powers of a full house?

8. Do agencies have to have a specific grant of rule-making power before adopting rules, or is it only necessary that such rules pertain to the implementation of a statutory or constitutional grant of power or responsibility? Additionally, can agencies have inherent rule-making power? (For example, many state supreme courts have established that they—the court—have certain inherent powers—as the power to prescribe rules and regulations for the state bar and rules of procedure within courts. Additionally, governors and the President cite as an inherent power their authority to issue executive orders and take a number of other actions.)

METHOD OF LEGISLATIVE ACTION

The states which require legislative affirmation of a review committee action or recommendation use one of three methods of legislative action: (1) by simple resolution of either house; (2) by joint or concurrent resolution; and (3) by bill or statute.

Simple resolution

The simple resolution method allows either house to sustain the committee action or recommendation by a simple resolution. Oklahoma, which uses this system, required a concurrent resolution of both houses to sustain the committee recommendation prior to 1975.

The advantage of this method is speedy affirmation of the committee's action or recommendation.

The disadvantages center around the constitutional weakness of the method, since the full legislature is not required to act. Also, this method could cause division between the two houses of the legislature.

Joint or concurrent resolution

Another method of affirming a committee action or recommendation is through a joint or concurrent resolution. Under this system, in most states no action by the governor is

required. Idaho, Montana and Vermont are among those states which utilize this method.

There are two primary advantages to this method. First, it provides that the full legislature take action, assuring a unified decision. Secondly, in most cases, it does not require gubernatorial action, so the legislature is making the final determination as to legislative intent and compliance with statutory authority.

There may be, however, constitutional problems in some states because in order to change a regulation which has the force of law, a statute has to be passed and signed by the governor.

Statute

The third method of legislative action on a review committee's action or recommendation is by bill. This may be done in the form of a bill either to repeal the regulation or to amend the statute under which the regulation was promulgated. In Arkansas, Florida and Nebraska, all of which have advisory powers, the legislature can enact a law amending the statute granting the promulgation authority. In Colorado, Minnesota and Wisconsin, the legislatures can nullify a regulation by statute. Kansas provides that a statute be enacted to repeal an existing regulation, but that a concurrent resolution is sufficient to prevent the implementation of a proposed regulation.

The statute method is the most constitutionally sound, since it adheres to the regular lawmaking process. The main disadvantage is that it involves the executive branch in determining whether a regulation was promulgated within the authority granted by the legislature.

STAFFING

There are two means of providing staff for the legislative review of regulations: (1) through a full-time staff devoted to the review of regulations; or (2) through a part-time staff provided by a central staff agency or individual committees.

Full-time staff

The number of full-time staff devoted to regulation review varies greatly among the states that use this structure. Florida's Joint Administrative Procedures Committee has a staff of six full-time attorneys and four administrative personnel. Most states with full-time staff usually have one or two full-time professional staff.

Full-time staff is utilized only by states which have a single joint committee structure. States with standing committees use either committee staff to perform review on a part-time basis or staff from a central agency.

Full-time professional staff are able to handle the volume of proposed regulations and perform a thorough review of all regulations. However, the primary disadvantage of this staffing structure is, of course, the cost of maintaining a full-time staff. Florida has a budget of $310,000 for its regulation review committee. Michigan, with two full-time attorney's, has a budget of $74,000.

Staff by central service agency or committee

The staff structure used most frequently for reviewing regulations is the assignment of staff on a part-time basis from a central staff agency. Usually, one or more attorneys or research analysts are assigned from the legal services or bill drafting agency, the code revisor's office, or the research agency. Alaska, Connecticut and Maryland and all use this type of staff structure. Idaho and Nevada, which use the standing committee review process, provide staff through the central research agency.

The use of staff from the central staff agency allows for staffing of the regulation review function without the higher costs of full-time staff. Also, many research agencies divide their staff by areas of expertise so the staff is familiar with the subjects of the regulations under review. In addition, since the staff may have helped to draft the enabling legislation, they are familiar with the legislative intent.

However, the disadvantage of this structure is that the staff has other functions to perform and may not be able to devote enough time to the regulation review function.

Recommendation No. 4:

The committee recommends that the committee or committees designated to perform regulation review be adequately staffed by permanent legislative staff, so that review of regulations is effectively accomplished.

PROCEDURES

Review of proposed regulations

Effective legislative regulation review can be accomplished either through a review of all proposed regulations or through selective review. In addition, some states have given the reviewing body the power to review all or selected pre-existing regulations.

The process of total review usually requires that all proposed regulations be submitted to the legislative body handling review. The committee, either by law or by tradition, may have the option of reviewing only selectively. In at least one state, Colorado, the staff reviews all proposed regulations and recommends consideration by the committee of selected regulations which may have technical errors to be in violation of either statutory authority of legislative intent. Some states review proposed regulations only upon the complaint of a legislator or citizen, even though the committee has the authority to review all regulations.

Review of all proposed regulations by the committee is designed to assure that no regulations are promulgated which may be in violation of legislative intent or statutory authority. Total review, however, requires much more staff and legislator time, and may not be necessary for a majority of proposed regulations. With selective review, complex and controversial regulations can be given careful scrutiny.

Review of pre-existing regulations

The majority of states with regulation review structures has the power to review regulations which are already in effect. In Florida, the review committee is currently examining all pre-existing and proposed regulations. The process of reviewing all pre-existing regulations is expected to take from three to five years. In some other states, review of pre-existing regulations is done on a selective or complaint basis.

This type of review assures that older regulations are brought up to date or repealed if no longer needed. But, it can tie up valuable staff time if not performed on a selective basis. Also, this procedure may raise constitutional questions regarding a legislature's right to determine the legislative intent of a previous legislature.

Recommendation No. 5:

The committee recommends that the review committee in each state have the authority to review all proposed and preexisting regulations.

Time constraints

To insure an orderly and expeditious review process, most states have time constraints on the various phases of the process. The agency usually has a certain number of days to file a regulation with the legislature before it can take effect. In some states there is no time limit, but the proposed regulation cannot go into effect without being filed with the legislative review body.

After the proposed regulation is filed by the agency, the committee usually has a certain time period within which to conduct its review. If the committee does not object to the regulation within the time period, it is deemed approved.

Some of the committees which have the power to suspend or recommend nullification of regulations must have the affirmation of the legislature within a certain time period or the regulation goes into effect. In Minnesota and Wisconsin, the legislature must sustain the committee action before the end of the next regular session. In South Dakota, suspension of a regulation during the interim is only valid until 30 days after the beginning of the session without legislative affirmation.

Time constraints on the regulation review process are necessary for three reasons: (1) to prevent agency circumvention of legislative review of regulations; (2) to insure adequate review time for the committee; and (3) to provide expeditious final disposition of regulations by the legislature.

Recommendation No. 6:

The committee recommends that reasonable time constraints be imposed on all levels of the regulation review process to provide for adequate review and expeditious final disposition of regulations by both, the committee and the legislature.

Emergency procedures

Most states with regulation review procedures have means by which emergency regulations can be promulgated. These procedures may include a limitation on the life of the emergency regulation and a provision for review by the legislature. Michigan's law allows emergency regulations to remain in effect only up to one year without formal legislative approval. This restriction prevents circumvention of the review process by the agency. In Connecticut, under a law passed in 1977, the agency must submit all emergency regulations to the review committee five days prior to their effectiveness. The committee has the authority to suspend those regulations within the five-day period. In Minnesota, emergency regulations are effective for only 90 days, unless they are repromulgated through the normal process which includes legislative review. Kansas law provides that "temporary" regulations may be implemented by agencies during the interim after they have been approved by the Temporary Rules and Regulations Board, which is composed of the chairman of the Joint Committee on Administrative Rules and Regulations, the Secretary of State and the Attorney General. All temporary regulations expire on the following April 30.

Recommendation No. 7:

The committee recommends that procedures be established for the promulgation of emergency regulations, with reasonable time limitations on committee review and on the effectiveness of those regulations to prevent agency circumvention of the legislative review process.

Frequency of review committee meetings

The review committees in many states which have legislative regulation review procedures usually meet once a month. Others meet only on call when there are regulations pending review. Some states' committees meet more often during the session than during the interim.

The actual volume of regulations reviewed is difficult to determine because a regulation can be defined as anything from a one-word amendment to an entire volume of new procedures. Many states review about 20 to 25 regulations per meeting.

Recommendation No. 8:

The committee recommends that the review committee meet often enough to provide adequate review of proposed regulations which agencies file.

Bills authorizing promulgation of rules

One reason why agencies might promulgate rules which do not conform with legislative intent is that the law authorizing such promulgation may not specifically state the legislature intent. Also, the law may be too broad or general and may not provide agencies with specific guidelines for the promulgation of rules. For example, a law may simply state that "reasonable rules be pro-

mulgated to prevent unfair bank competition."

Recommendation No. 9:

The committee recommends that legislative bill drafting and counseling agencies adopt specific guidelines to assure that all bills granting rule-making authority to administrative agencies be reviewed before introduction to assure that (1) legislative intent is clearly spelled out in the bill, and (2) adequate standards are included to guide agencies in rule promulgation pursuant to the bill.

Fiscal notes on regulations

South Dakota requires that each proposed regulation have a fiscal note stating the effect the regulation will have on state revenue and/or expenditures. This fiscal note, which is prepared by the agency and reviewed by the state Bureau of Finance and Management, must include information on the fiscal impact for the first year and the continuing fiscal impact, the assumptions made in preparing the statement and the source of statistics used. The fiscal note is furnished to both the Interim Rules Review Committee and the Joint Appropriations Committee, either of which may refer it to the relevant standing committee for review. While objections can be made to a regulation because of the fiscal note, it is unclear if a regulation can be suspended on that basis.

The LIM Committee discussed the issue of fiscal notes on regulations and decided that since it is a relatively new procedure, there was insufficient information on state experiences to warrant a committee recommendation at this time.

CONSTITUTIONAL QUESTIONS

The legislative review of administrative regulations process has raised a number of constitutional questions which can only be answered by an examination of each state's constitution and relevant court decisions. The eight questions following Recommendation No. 3 (under "Regulation Review Powers") provide guidelines for this examination. The four major questions being raised relate to (1) the legislative review process itself; (2) the delegation of legislative review authority to a legislative committee; (3) the committee's and the legislature's power to suspend a regulation; and (4) the use of a bill or reslution to sustain committee action.

Legislative regulation review process

Legislative regulation review has frequently been questioned as a violation of the constitutional separation of powers concept. Opponents of legislative review claim that rule-making is an administrative function and that legislative review (and in some states, repeal) of rules is a usurpation of executive authority. The U.S. Supreme Court has ruled in the case of *Buckley* vs. *Valeo* (No. 74–736, 424 U.S. 2, January 30, 1976) that Congress, in creating the Federal Election Commission with a number of congressionally-appointed members, violated the U.S. Constitution's provision that only the President can appoint administrative officers. This case is significant because it is the first time since 1928 that the Supreme Court has addressed the question of separation of powers. The Buckley case may be cited in challenges to legislative review powers because legislatures, after passing enabling legislation, are retaining some control over what is seen as a wholly administrative function.

Supporters of legislative review contend that since the courts have upheld the legislature's right to delegate rule-making authority to executive branch agencies, it is consistent for legislatures to condition that authority with a legislative review process. Also, agency rule-making is more quasi-legislative than executive, so legislatures should be able to retain control over what is essentially a policy-making function.

Another separation of powers question arises with respect to the legislature usurping the role of the judiciary to interpret the laws. However, it has been argued that regulation review is actually the final step in the legislative process, and that if regulations are reviewed prior to effectiveness, that review is distinguishable from an after-the-fact judicial determination.

In Wisconsin, all legislation authorizing promulgation of regulations also includes a section requiring that those regulations be reviewed by the legislature. This standardized language, as part of the bill signed by the governor, puts the legislature in a stronger constitutional position since the governor has approved the condition placed upon agency rule-making.

Delegation of legislative review authority

The delegation of review authority to a legislative committee may raise constitutional questions, depending on the committee's powers, especially if those powers include suspension of regulations. But, as mentioned above, court decisions have upheld the legislature's right to delegate its power. Since the review power is delegated to an entirely legislative unit, that delegation is proper as long as the full legislature retains control over the committee's actions. The most serious constitutional question arises when a committee is empowered to suspend regulations without affirmation by the legislature.

Suspension powers

Opponents of legislative review also argue that neither the committee nor the full legislature has the authority to suspend a regulation. The arguments for this position relate to the authority to conduct review in the first place. At the very most, it is argued, the legislature can only have advisory review powers, since once a law is passed, it is solely the executive branch's function to implement that law.

Defenders of legislative regulation review claim that only the legislature can determine legislative intent, and suspension power insures that that intent will not be violated. A state Supreme Court case in Wisconsin challenged the committee's right to suspend a regulation. But the bill upholding the committee's suspension was not passed before the end of the session and the court dismissed the challenge without a definitive decision.

Suspension of a regulation by a committee may pose serious constitutional questions if, as in Connecticut, the legislature is not required to uphold the committee's suspension. In Connecticut, a case is now pending which directly challenges that state's regulation review powers. Connecticut is among the strongest of all states with such powers. The case will be argued on separation of powers grounds and if finally decided by the court either for or against the state's legislative review law, it will provide a basis for court action in other states.

Method of legislative action

Another constitutional question revolves around the method by which the legislature repeals or upholds a committee suspension of a regulation. It has been argued that since a regulation has the force of law, only the passage of a statute can repeal it. Attorney General opinions in Michigan and Tennessee ruled that repeal of a regulation should be in the form of a bill.

On the opposite side, it has been argued that since a bill requires a gubernatorial signature to become law, the use of a bill brings the governor into the process of determining legislative intent, a violation of separation of powers.

The use of a joint or concurrent resolution to repeal a regulation has been argued as proper because approval of regulations is one of the contingencies specified in the enabling legislation giving the agencies rulemaking authority.

The use of a simple resolution of either house to disapprove a regulation may be constitutionally the weakest method, since only one house is exercising the power of the legislative branch.

Constitutional regulation review powers

While most states with regulation review authority have acquired that power by statute, Michigan has a constitutional provision giving a joint legislative committee the power to suspend regulations during the interim. The Florida legislature, which has only advisory review powers, attempted to acquire repeal powers through a constitutional amendment, but the proposal was defeated in a statewide referendum in 1976, as was a similar proposal in Missouri.

Other states may try to put the regulation review powers in their constitutions to prevent future challenges to legislative authority in this area.

SUMMARY OF STATE LAWS

Legislative review of administrative regulations

Alaska—(AS § 24.20.400 and § 44.62.320). The Alaska legislature in 1975 created the Administrative Regulation Review Committee as a permanent interim committee of the legislature composed of three members each from the house and senate. The committee is empowered to examine all administrative regulations to determine if they properly implement legislative intent. Prior to 1978, the committee could recommend annulment of a regulation to the legislature, which in turn, had to adopt a concurrent resolution to do so. A 1978 law passed over the governor's veto empowered the committee to suspend objectionable regulations until 30 days after the next session begins. During the 30-day period, the legislature must annul the regulation through the passage of a concurrent resolution or it goes into effect.

Arizona—(Ariz. Rev. St. 41–511.05). Rules and regulations promulgated by the State Parks Board are the only ones which require legislative review and approval. All other agencies file regulations with the Attorney General and Secretary of State to put them into effect. State Parks Board regulations may be disapproved by concurrent resolution of the legislature for up to one year after they take effect.

Arkansas—(Ark. St. 6–608 et seq.). All proposed, revised, or amended rules and regulations must be filed with the Legislative Council. Rules are reviewed to determine whether they are consistent with legislative intent or if they exceed statutory authority. The function of the Legislative Council review is advisory. If a proposed rule is determined to be improper, the Legislative Council files a statement with the agency concerned and submits recommendations to the legislature. This review procedure was adopted in 1973.

Colorado—(Colo. Rev. St. 24–4–103, Subsec. 8, para. d). Under a law passed in 1976, the Committee on Legal Services, a bipartisan joint committee of four members from each house, reviews all new rules during the interim for "legality and constitutionality." During the session, the standing committees of each house review all new rules. After hearing staff recommendations and agency testimony, the committee can vote to amend or repeal the rule and then submit a bill to the full legislature. There are no time constraints for any stage of the procedures. The governor vetoed a bill passed in the 1977 session which would have made the Committee on Legal Services the review committee for all proposed regulations, during both the session and the interim. It also provided for time constraints for agency filing of regulations with the committee, fiscal notes for regulations with a fiscal impact, and review of pre-existing regulations over five years. On April 10, 1978 the veto was overturned by the Colorado Supreme Court on a technicality, and the bill became law.

Connecticut—(Conn. Gen. St. 4–170 et seq.). The Legislative Regulations Review

Committee is bipartisan and composed of eight representatives and six senators. It reviews all proposed regulations of state departments and agencies and may hold public hearings thereon. The committee may give notice of approval or disapproval within 60 days (failure to act within 60 days constitutes approval). If the committee gives notice of disapproval, no agency may take action to implement the disapproved regulation. The committee reports annually to the general assembly on all disapproved regulations which, after study by an appropriate committee, may vote to sustain or reverse the disapproval. Any committee disapproval of a regulation implementing a federally subsidized or assisted program must be sustained by the general assembly or it is deemed reversed. The committee attempts to resolve questioned regulations with the agency responsible, but has disapproved several regulations each year. A 1977 law provides for a five-day period for prior review of proposed emergency regulations by the Committee.

Florida—(Fla. Stat. Sec. 11.60). Florida's Administrative Procedures Act was rewritten in 1975 and a Joint Administrative Procedures Committee created. This committee has three specific functions: to review proposed rules as they are adopted; to maintain a continuous review of statutory authority underlying each rule and note when that authority is changed by either the legislature or the courts; to review administrative matters in general as they relate to the APA. The committee makes a legislative observation on each rule but does not have the power to suspend a rule. If an objection is made by the committee to a rule, the agency is requested to withdraw or modify it. In most cases, agencies have been found willing to respond affirmatively to legislative objections. Of the first 840 rules reviewed in 1976, 79 percent were found to contain some error and 6.3 percent of these were found to exceed statutory authority. A 1975 amendment to the APA requires an "economic impact statement" to accompany each proposed rule estimating the costs of the rule to those affected by it. The committee has a staff of 13. A constitutional amendment giving the legislature power to suspend rules was rejected in a 1976 referendum.

Georgia—(Ga. Stat. 3A–104(e), (f)). A 1977 law provides for legislative review of regulations by standing committees predesignated by the speaker and senate president for each agency. Regulations must be submitted by the agencies 20 days prior to their effectiveness. If the committee objects to a regulation, it may introduce a resolution repealing or modifying the regulation at the next session. The resolution must be acted upon within 30 days after the beginning of the session in the house of origin and within five days in the other house. Constitutional two-thirds majority approval in both houses is necessary for the rule to be repealed or modified. If the resolution passes by less than a ⅔ constitutional majority, it must go to the governor, who may sign or veto the resolution. The legislature cannot override a veto of such a resolution.

Idaho—(Idaho Code Sec. 67–5217, 67–5218). All rules authorized or promulgated by any state agency are to be submitted to the legislature in regular session for reference to the appropriate standing committees. Any committee or member of the legislature may propose a concurrent resolution rejecting, amending, or modifying any rule thought to be in violation of the statutory authority or legislative intent of the statute under which the rule was made.

Illinois—(Ill. Rev. Stat., Chap. 127, § 1001 et seq). The bipartisan Joint Committee on Administrative Rules reviews all proposed regulations and makes recommendations to the agency to modify or withdraw the rule. While the agency is not bound to accept the committee's recommendations, it must respond to them. Failure to respond constitutes withdrawal. The committee can introduce a bill to modify or nullify a rule to which it has objected.

Iowa—(Iowa Code Ann. Sec. 17A.8). A new Administrative Rules Review Committee was created in 1975, although authority for regulation review had previously existed. The new committee is composed of three members from each house and meets monthly. It is authorized to selectively review promulgated rules, but is currently reviewing all promulgated rules. The review committee may file objections to rules based on the fact they are unreasonable, arbitrary, capricious or beyond the scope of agency authority. Such objections transfer the burden of proof to the issuing agency in any legal challenge to the rule. An agency unable to sustain this burden of proof in a legal challenge may be liable for all court costs to the challenge. The Rules Review Committee may also refer a rule for consideration to the appropriate legislative standing committee at the next regular session.

Kansas—(K.S.A. 1978 Supplement 77–415 et seq). The revisor of statutes submits a copy of all rules and regulations filed during the previous year to the Joint Committee on Administrative Rules and Regulations (JCARR) at the beginning of each legislative session. The legislature may pass a bill modifying or rejecting an existing regulation or it may pass a resolution rejecting a proposed regulation or a proposed amendment to a regulation. During the interim, agencies may adopt temporary regulations after obtaining the approval of the Temporary Rules and Regulations Board, which is composed of the Chairman of the JCARR, the Secretary of State and the Attorney General, or their designees.

Kentucky—(K.R.S. 13.087). The Administrative Regulations Review Subcommittee (three members) reviews all proposed regulations as to whether they conform to statutory authority and to the legislative intent of the statutes. If nonconforming, a regulation is returned to the agency with the legislative objections. If an agency does not revise the regulation, it is then presented to the appropriate legislative standing committee or joint interim committee for a second review as to statutory authority and legislative intent. If this committee raises objections, it is again returned to the agency for reconsideration, but the legislature does not have power to suspend a rule and the agency is only required to give "affirmative consideration" to legislative objections and is not bound to modify the rule. A 1974 act provided that all existing regulations be rescinded unless repromulgated by the agencies within one year.

Louisiana—(LRS 49–968 et seq). The legislature in 1976 passed a law providing that all rules proposed by agencies be submitted to a specified house and senate committee simultaneously upon their filing with the Department of the State Register. The committee may then hold a public hearing and issue a report to the agency expressing approval or disapproval of the rule. Although the committee report is printed in the State Register, the agency is not bound to accept it. A 1977 bill vetoed by the governor would have given the committees the power to stop a rule from going into effect by raising objections within 15 days after it is filed with the committee. The legislature would not have been required to act, but could have overridden the committee's objection by passage of a concurrent resolution. A 1978 law provides that if a committee finds a rule unacceptable, the committee will submit a report to the Governor. The Governor has five days to disapprove the committee report; if he does not, the agency must change or modify the rule.

Maine—(5MRSA c. 308 § 2501 et seq). A law enacted by the 1977 session provides that agencies submit all curent rules to the legislature by January 15, 1978 for review by the appropriate standing committees. These committees must hold public hearings and recommend to the legislature an expiration schedule for all rules. A committee may recommend immediate expiration of a current rule. The legislature must then pass bills to implement these expiration schedules. All new rules which go into effect after January 1, 1978 automatically expire five years after their effectiveness unless the legislature passes a bill terminating their effectiveness in less than five years.

Maryland—(Md. Ann. Code 1977, Art 40, § 40A). The Standing Committee on Administrative, Executive, and Legislative Review (five senators, five delegates) reviews regulations as they are published in the Maryland Register. The committee has no power to suspend or veto proposed regulations, but its views are often persuasive with agencies when it raises questions about proposed regulations.

Michigan—(Mich. St. Ann. 24.201–24.315, Act No. 108, Public Acts of 1977). The Joint Committee on Administrative Rules (three senators, five representatives) has a 60-day period in which to approve or disapprove all proposed rules. Under a 1977 law passed over the governor's veto and effective on January 1, 1978, if the committee disapproves a rule or fails to approve it within 60 days, the rule cannot be adopted by the agency unless the legislature overrules the committee action within 60 days. The state supreme court has refused to consider a request by the governor for an advisory opinion on the constitutionality of this law. In addition, opinions of the attorney general have questioned the constitutionality of legislative disapproval of rules by concurrent resolution, rather than by bill. Legislative power to review and suspend regulation during the interim is authorized in Article IV, section 37 of the state constitution. Michigan has more than 30 years experience with some type of legislative oversight of administrative regulations.

Minnesota—(Minn. St. 3.965). The Legislative Commission to Review Administrative Rules, composed of five members of each house, may hold public hearings to investigate complaints concerning rules and, on the basis of testimony received, suspend any rules. In practice, however, the committee reviews all proposed rules. If a rule is suspended by the committee, such action must be sustained by the legislature at its next session. Before the committee suspends any rule, it shall submit it to the appropriate standing committees for their review and recommendation. Emergency rules are effective for only 90 days, during which time they must be repromulgated under the regular procedure in order to remain in effect beyond that time.

Missouri—(Sec. 536.037, RSMo). Under a 1976 law, the legislature created the Joint Committee on Administrative Rules. The committee reviews all proposed rules published in the Missouri Register, but its review is advisory only. A proposed constitutional amendment authorizing legislative rejection of agency rules was submitted to the electrorate by the legislature and was defeated in August, 1976. During the 1977 session, the legislature attached to many bills a provision that all agency rules promulgated under the respective bills expired in two unless approved by a concurrent resolution of the legislature. An additional provision attached to many bills mandated either the expiration of the rules promulgated under the authority of the respective bills, the repeal of the promulgating power, or both, on November 30, 1981.

Montana—(Sec. 2–4–401 et seq., MCA 1978). An Administrative Code Committee was established in 1975 to review all proposed rules. This committee makes recommendations for action by the agencies to the legislature which, by joint resolution, can repeal or compel the amendment or

adoption of a rule. Legislation enacted in 1977 mandates that all bills authorizing agencies to promulgate rules include a statement of legislative intent. The new law (SB 37) also shifts the burden of proof to the agency in any subsequent legal action challenging the rule as having been adopted in an "arbitrary and capricious disregard" of the purpose of the authorizing statute. Another 1977 law (SB 120) allows the committee to poll the members of the legislature by mail during the interim to determine whether a proposed rule is consistent with legislative intent.

Nebraska—(Neb. Rev. St. Section 84901 et seq). The Administrative Rules and Regulations Review Committee reviews proposed rules and recommends to the legislatures appropriate action. The legislature may repeal, change, alter, amend, or modify the original law granting the authority to promulgate rules or general program authority. Under a new law, effective January 3, 1979, the committee has the authority to suspend rules if they do not reflect legislative intent or are contrary to the state's Administrative Procedure Act.

Nevada—(Chap. 233B. 101 et seq NRS). Under a 1977 law, all proposed regulations are submitted to the Nevada Legislative Commission, which must review them at its next monthly meeting. If the commission objects to a regulation, it is returned to the agency, which must resubmit either the same regulation or an amended version to the commission. The regulation is forwarded to the speaker and the senate president for referral to the appropriate standing committee. The legislature can enact legislation amending the statute under which the objectionable regulation was promulgated.

New Hampshire—(NHRSA Sec. 531 A). In 1977, the legislature enacted a law creating a Joint Committee on Review of Agencies and Programs. The committee will have the power to sunset agencies and review their existing rules. In addition, the law provides the standing committees the power to review rules prior to their effective date and may send the rules back to the agency if the rules are not in the proper format.

New York—(NYSA, Legislative Law, Art. 5–B. Secs. 86–88). A 1978 law formally created the Administrative Regulations Review created by joint resolution in 1977, is composed of three senate and three assembly members. Agencies must file their proposed rules with the commission at least 21 days prior to effectiveness. The commission has the power to examine agency rules as to their statutory authority, their compliance with legislative intent, their impact on the economy and government operations, their impact, on affected parties. In addition, the commission may hold hearings and has been granted subpoena power.

North Carolina—(G.S. 120–30.19 et seq). A 1977 law created the Administrative Rules Review Committee as a permanent committee of the Legislative Research Commission (LRC). All rules adopted by agencies are filed with the director of the LRC, who refers them to the review committee. The committee has up to 60 days to review these rules and may file objections. The agency must respond within 60 days of receipt of the committee's report. Agencies are not bound to comply with the committee's objection, and if they don't, the rule goes to the full LRC for review. The LRC can make recommendations for legislative action to the General Assembly if the agency fails to comply with any commission objections. The law also provides for selective review of all preexisting regulations. It is effective on October 1, 1977 and expires June 30, 1979.

Ohio—(Sec. 101.35, 111.15, 119.01, & 119.03 of Rev. Code). A 1977 law created the Joint Committee on Agency Rules Review with seven members from each house. All proposed rules must be submitted to the committee 60 days prior to adoption. If during that time, the committee disapproves a rule, a concurrent resolution to that effect is introduced. The legislature must adopt the resolution within 60 days to nullify the rule. Any rule promulgated during the interim may go into effect, but the committee and the legislature may disapprove the rule by concurrent resolution within the first 60 days of the next regular session. The committee may meet during the interim and may suspend objectionable rules by a two-thirds vote of its members. The suspension must be sustained by the legislature by concurrent resolution within 60 days of the convening of the next regular session.

Oklahoma—(75 O.S. Supp. 1977 Sec. 308). Prior to 1976 the law provided that any administrative rule or regulation could be disapproved by the legislature by joint resolution. In 1976, this was amended providing for disapproval by either house by simple resolution, rather than requiring the consent of both. Review of proposed rules and regulations is conducted by the Division of Legal Services under the direction of the Legislative Council.

Oregon—(ORS 171.705 to 171.713). The Legislative Counsel Committee reviews all proposed rules and reports to the legislature. There is no formal procedure for further legislative action beyond this informational review. Rules are reviewed to determine whether they conform with the intent and scope of enabling legislation, have been adopted in accordance with all legal procedures, are consistent with constitutional provisions. The committee may recommend changes in the statute authorizing the rulemaking powers.

South Carolina—(Act No. 176 of 1977). The legislature in 1977 passed legislation amending and clarifying a 1976 law creating the state register and providing for legislative review and approval of agency rules. Under the new law, the Legislative Council supervises the printing of the state register, in which are printed all proposed and promulgated rules. Proposed agency rules are reviewed by the appropriate standing committee in each house. These rules cannot go into effect until 90 days after receipt by the legislature. The legislature may adopt a joint resolution during that time either approving or disapproving the rule. The 90-day review period continues to run as long as the legislature is in session. After sine die adjournment, the 90-day period ceases to run until the convening of the next regular session. Emergency rules can be promulgated for 90-day periods only when the legislature is not in session.

South Dakota—(SDCL 1–26–1.1, 1.2). The Interim Rules Review Committee reviews all proposed rules and makes recommendations to agencies and to the legislature on any suggested amendments to the Administrative Procedures Act. By a 5/6 vote of the six-member committee, a proposed rule can be suspended until 30 days after the next legislative session convenes. Unless the committee suspension is sustained by the legislature through passage of a bill within this 30-day period, the rule may take effect. All proposed rules submitted to the committee must have attached to it a fiscal note, prepared by the agency and reviewed by the Bureau of Finance and Management. The fiscal note must include the fiscal impact on state government, the assumptions made in preparing the statement and the source of statistics used.

Tennessee—(Tenn. Code Ann. 4–535). Agency rules are referred in the House to the Government Operations Committee and in the Senate to the appropriate standing committee for review. The reviewing committee of either house may suspend the effectiveness of any agency rule or the amendment or repeal of an agency rule. Such suspension is effective until rescinded by the committee or by joint resolution of the General Assembly. Any suspension must be preceded by 15 days notice to the agency of any contemplated action. Suspension is effective upon written notice from the committee chairman to the Secretary of State. (The Attorney General of Tennessee has advised the Governor that this procedure is unconstitutional and that any suspension of a rule can only be accomplished by passage of a bill by a majority of both houses and approval by the Governor.)

Texas—(Chap. 321, Acts of 65th Legislature, 1977). Under a 1977 law enacted by the legislature, agencies must forward to the presiding officers of each house copies of all proposed rules at the same time they are filed with the secretary of state. The proposed rules are then referred to the appropriate standing committees for review. The legislature has a minimum of 30 days to review prior to the rules taking effect. The committees can send statements supporting or objecting to proposed rules to the agency during that time, but its powers are advisory. Standing committees don't meet very often, if at all, during the 19-month interim between biennial sessions.

Vermont—(3 V.S.A. 817–820). The General Assembly of Vermont in 1976 created an eight-member joint committee on administrative rules. This committee reviews any proposed rule and may recommend its amendment or withdrawal upon a finding that the proposed rule is arbitrary, beyond the authority delegated to the agency, or contrary to legislative intent. Committee recommendations are submitted to the next session of the General Assembly. Objectionable rules may be repealed by joint resolution of the General Assembly.

West Virginia—(Code of W. Va. Art. 3, Chap. 29a). The 1976 session created Legislative Rule-making Review committee composed of six members from each house. All proposed rules must be submitted to the committee, which has six months to review them. If the committee disapproves a rule, the agency cannot take any "action to implement such disapproved rule or regulation." The legislature may, by resolution, reverse the committee's disapproval, but the rule remains suspended unless the legislature acts. Regulations implementing federally-subsidized programs may be disapproved by the committee, but unless the legislature sustains the disapproval by the end of the regular session, the rule goes into effect.

Wisconsin—(W.S.A. 13.56). The Joint Committee for Review of Administrative Rules (five senators, five representatives) reviews rules and may suspend them until the next session. Any suspension must be ratified by the legislature by passing a bill at the next session. The committee also reports biennially to the legislature and has the authority to direct an agency to promulgate a statement of policy or an interpretation of a rule under the Administrative Procedures Act.

Wyoming—(Wyo. Stat. Sec. 28–82 to 28–89). Under this 1977 law, all existing rules and all future proposed rules must be filed with the Legislative Service Office (LSO). The LSO reviews the rules and reports to the Legislative Management Council. If the LSO has found a rule objectionable and the council agrees, the disapproved rule goes to the governor, who may agree to repeal the rule. If the governor disagrees with the council's recommendation, the council can only recommend that the full legislature act through what is called a "legislative order" (presumably a statute). Legislative action must take place before the end of the legislative session in order to nullify a rule.

Mr. SCHMITT. Mr. President, I will yield the floor or suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EXON). Will the Senator withhold that?

RECOGNITION OF SENATOR HARRY F. BYRD, JR.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

SALT II: AMENDMENTS REQUIRED

Mr. HARRY F. BYRD, JR. Mr. President, the proposed SALT II treaty, in the form presented to the Senate by the President, would not enhance American security but would confirm in a legal document the right of Russia to superior strategic forces. SALT II, therefore, in order to be made acceptable to Americans, must be modified in the Senate before its approval can be actively considered.

Frankly, my own study of SALT II causes me to feel that even extensive direct amendment of the treaty may not be sufficient to correct its many faults. Nevertheless, I am persuaded that, if SALT II is brought before the Senate, then the Senate should make a serious attempt to refashion and correct the proposed agreement so that some degree of true arms control can be incorporated into it and so that the provisions which favor Russia and disadvantage the United States can be brought into equilibrium.

Some Senators have suggested that the flaws in SALT II can be corrected by reservations and understandings to a final resolution of ratification. I cannot share that view.

Article VI of the U.S. Constitution provides that the Constitution and "all treaties made, or which shall be made, under the authority of the United States shall be the supreme Law of the Land." The SALT II treaty, if ratified, will be, insofar as the United States is concerned, supreme law. This fact is critically important.

Therefore, if the SALT II treaty is brought before the Senate, I feel that Senators should keep continuously in mind that the Senate would be dealing with a document proposed to become supreme law, thus binding not only our Government but all citizens and committing under law the entire Nation to the faithful observation of every dotted "i" and crossed "t" of its provisions. Similar considerations do not obtain in Russia.

Reservations and understandings do not directly change the terms of a treaty. They make, instead, statements about those terms in an inherently feeble attempt to vary the meaning given the treaty agreement by the parties to it. Reservations and understandings under these circumstances cannot do the job. In the case of SALT II, reservations and understandings would never be considered by Russia to be part of the contractual agreement reached. Reservations and understandings are indeed unilateral statements of one party to a contract.

Regardless of the method by which reservations and understandings are required to be incorporated into the instrument of ratification and signed by both parties, Russia will not be bound by extrinsic statements. Only the terms of the contract itself, only the terms of SALT II itself, would have any impact on Russian behavior.

In order to bind Russia, actual amendments to the treaty must be made and must be subsequently accepted by Russia as part of the actual agreement between the governments of the two countries.

The United States has been down the same road before in attempting to bind Russia with statements made external to the precise terms of actual agreements reached. To me, the lesson should have been learned sufficiently that the Senate would not waste any significant time discussing reservations and understandings to SALT II.

Who could forget so soon the attempt of the United States in SALT I to bind Russia by a unilateral statement that SALT I bound both parties not to build light missiles of throwweight exceeding 2,000 pounds? Secretary of State Kissinger was in the forefront in assuring and reassuring the Congress that the silence of Russia in response to that unilateral statement of the United States indicated the agreement of Russia to be bound by our definition and interpretation.

He was wrong. The United States was, of course, bound by its own statement. Russia was not. The proof is the SS–19 built by Russia as a light missile with a throwweight of 8,000 pounds—some four times the limit we thought we had established.

No, reservations and understandings are not going to bind Russia. That is a fact of life learned by experience.

I do not question that the United States can, by means of reservations and understandings, to some extent affect and outline what its own conduct will be under SALT II. Clearly, we can state how we intend to behave under SALT II by means of reservations and understandings, and indeed, Soviet acquiescence in such statements does have some effect in that we can assume that our intentions are known and accepted. Obviously, we can thereafter directly govern our own conduct.

But, on the other hand, it is absolute folly to believe that the conduct of Russia can be governed by anything less than direct amendment of the treaty. Our statements of intention, our interpretations, insofar as they seek to bind Russia, will be roundly and quite rightly ignored.

Again, I question, in the final analysis, whether this treaty is a document which can be made worthy of Senate consent to ratification.

But I do believe that in attempting to mold and fashion this agreement into a form which is acceptable, the effort of the Senate should concentrate on amendments and should not waste time on mere reservations or understandings.

Senate procedure on treaties embodies rules which also recognize the importance of amendments and the relative insignificance of reservations and understandings.

Senate procedure requires the Senate to consider treaties article by article, first in the Senate sitting as the Committee of the Whole, and next, in the Senate sitting as the Senate in executive session.

Amendments are in order at all times and are in order to be considered in both forms, both during the article-by-article consideration of the treaty and at the conclusion of such consideration, at which stage a treaty is open to amendment at all points in its text.

Only after this extensive and important procedure has been completed, both in the Committee of the Whole and in the Senate, is it then in order to consider the less significant, the less effective reservations and understandings to the resolution of ratification.

Senate procedure, therefore, requires that, in considering a treaty, the emphasis is to be placed on the amending process. These rules are good. They insure sound deliberation.

The Senate should take full advantage of its rules in correcting, by amendment and by amendment alone, defects in the contractual obligations which Russia would undertake and in molding the obligations at supreme law which would be undertaken by the United States.

Reservations and understandings which purport or attempt to bind Russia cannot accomplish that goal.

Reservations and understandings may give Senators an excuse to vote to ratify SALT II—but reservations and understandings will not bind Russia. Only amendments, subsequently accepted by Russia, can do that.

RUSSIAN MILITARY SPENDING: HEARING IN THE SUBCOMMITTEE ON GENERAL PROCUREMENT

Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on General Procurement of the Senate Committee on Armed Services is studying Soviet military procurement. On November 1 and November 8, 1979, the subcommittee received testimony from administration witnesses and from certain knowledgeable individuals outside of Government.

Among those who appeared before the subcommittee were Donald Burton, Chief of the Military Economics Division of the Central Intelligence Agency; Mr. William T. Lee, a recognized authority on Soviet military spending; Mr. Gordon Negus, defense intelligence officer for strategic forces at the Defense Intelligence Agency; Dr. Jack Vorona, Assistant Vice Director of the Defense Intelligence Agency for Scientific and Technical Intelligence; and Dr. Steven Rosefielde, professor of economics at the University of North Carolina.

As chairman of the Subcommittee on General Procurement, I feel that it is important for the subcommittee to understand the level of military procurement under way in the Soviet Union and that it is important for the American public to appreciate the scope of the massive arms buildup which has occurred in Russia since SALT I was approved in 1972.

These hearings have been held in open session. Much information has been gained.

First, evidence was received in the subcommittee that present CIA estimates of Soviet military spending are understated. The Central Intelligence Agency estimates the current rate of growth of military procurement to be 3 to 4 percent in real terms annually. However, other wit-

nesses who appeared before the subcommittee gave strong testimony that the rate of growth in Soviet procurement in real terms could be as high as 11 to 13 percent annually. These witnesses also expressed the view that the Soviet military consumed 18 percent of the Russian GNP rather than the 11 to 13 percent of GNP estimated by our CIA.

Dr. Jack Vorona of the Defense Intelligence Agency also provided valuable testimony to the subcommittee. Dr. Vorona explained in some detail the importance of the massive transfer of technology which occurs from the West to the East. In specific response to a question by me, he testified that the Russian war machine had been greatly aided by exporting to Russia American technology.

He illustrated his point with several specific examples. Perhaps the most startling of these was the disclosure that 164 Centalign-B precision ball-bearing machines shipped to Russia in 1972 were apparently used in perfecting the accuracy of the SS–18 ICBM warhead.

Dr. Vorona, because of classification requirements, could not answer several important questions for which the public is entitled to a response.

He could not answer in the public record the following questions: First, is Russia building a prototype space laser for ABM uses; second, is Russia preparing an ABM system for nationwide deployment; and, third, is Russia constructing nuclear aircraft carriers, and if so, how many?

My colleague from Virginia, Senator WARNER, stated the opinion that the public should be provided at least a basic response to these important inquiries. I agree.

The testimony of Dr. Vorona is perhaps the most important to get rapidly before the Congress and the public. Accordingly, I ask unanimous consent that the testimony of Dr. Vorona before the Subcommittee on General Procurement be printed in full in the RECORD.

I also ask unanimous consent that two articles on Dr. Vorona's testimony which were carried in Defense/Space Business Daily on November 9, 1979, be printed in the RECORD.

The articles deal with U.S. assistance to Russian weapons development and with the development of a new Russian ABM system for possible nationwide deployment. Both subjects merit close study.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DIA SAYS U.S. CONTRIBUTED TO SOVIET SS–18 MIRV CAPABILITY

Technology transfer contributions to Soviet military cited

The Defense Intelligence Agency told Congress yesterday there is a definite possibility that United States precision miniature ball bearing grinding machines delivered to the Soviet Union in 1973 and 1974 are being used to provide the latest versions of the SS–18 ICBM with its highly accurate MIRV guidance systems.

While it had been assumed previously that these machines enabled the Soviet Union to develop their MIRV capability, Dr. Jack Vorona, assistant vice director for Scientific and Technical Intelligence of the DIA, said the first machines were not delivered until after the Soviets had begun testing their "relatively unsophisticated first generation MIRVs."

However, Vorona told Sen. Harry F. Byrd, Jr. (I-Va.), chairman of the Senate Armed Services Subcommittee on General Procurement, it is "reasonable" to assume that these machines have been used for producing the bearings for the follow-on high quality MIRV guidance systems in the SS–18, equipped to carry a payload of ten warheads. "We have no doubt that these machines are making a distinctive contribution to the Soviet military effort," he said.

West's major role in Soviet military advancement

The ball bearing grinding machine was one of several technology transfer items outlined by Vorona, where the industrialized West has played a major role in the modernization and expansion of Soviet industry and subsequently the Soviet military advancement.

He noted, for instance, that the Soviets purchased at least one copy of each of the 80,000 U.S. government documents and government contractor reports deposited with the National Technical Information Service of the Department of Commerce each year.

In addition to the ball bearing grinding machine acquisition by the Soviets, Vorona said an entire series of Soviet computers is based on IBM 360 and 370 computers that were "illegally diverted" into the USSR in 1971 and 1972. These diversions may have been the cornerstone for the Soviet/Warsaw Pact development of the RYAD I and II computers, he said.

He also cited the example of the Kama River truck plant built in the Soviet Union almost exclusively with Western technology, supposedly for the building of trucks for the Soviet civil economy. Many of the trucks, Vorona said are actually being used by the military and some of the excess engines being built at the Kama plant may be destined for other military vehicles.

The Soviet acquisitions are not limited to purchases and diversions of equipment and goods, Vorona said. He cited the example of a Soviet exchange student who came to the U.S. in 1976–77 to study in a university the passage of shock waves through inert and combustible heterogeneous mixtures, a science involved in fuel-air explosives. "It appears this 'student' is himself involved in research directly related to fuel-air explosives," the DIA official said.

In another instance, under the auspices of an agreement between the U.S. and Hungarian Academies of Science, Gyorgy Zimmer, head of the Hungarian effort in magnetic bubble research (used for computers) has been coming to the U.S. periodically and conducting research at one of the U.S. leading universities, attending conferences and visiting other facilities to observe and discuss American research in this field. "As in all other fields, we believe the Soviets have access to most if not all Hungarian and other Warsaw Pact research and information including that which Mr. Zimmer gains in the U.S.," Vorona told the subcommittee.

There are 10 bilateral agreements in existence between the Soviet Union and the U.S., comprising about 240 working groups on such subtopics as use of computers, metallurgy, microbiology, chemical catalysis, physics, science policy, meteorology, fast breeder reactors, controlled thermonuclear research and MHD power generation. A provision of these agreements has resulted in the establishment of a large number of separate agreements between U.S. companies and the Soviet government, "significantly, we believe, with companies who are 'front-runners' in areas in which the Soviets are deficient," Vorona explained. "There is no formal U.S. government oversight of these agreements "unless a validated export license is required. . . . We view these agreements as still another mechanism for the potential transfer of advanced technology," he said.

"The Soviets are seeking Western technology and equipment by any and all means," and, while in the past Soviet weapons designers had a limited technological base for specialized components, Vorona said, "technology transfers affords them the opportunity to rectify such deficiencies. . . . We are positive it is . . . making a very significant contribution" to the Soviet military.

DIA SAYS SOVIETS DEVELOPING NEW ABM SYSTEM

Dr. Jack Vorona, the Defense Intelligence Agency's vice director for scientific and technical intelligence, told a Senate Armed Services subcommittee yesterday (see preceding report) that the Soviet Union is developing new ABM system, but it is not yet known whether this system is designed for national deployment. Right now, Vorona said, the Soviets are expending "considerable resources, commitments and priority" to ABM systems.

SENATE FOREIGN RELATIONS VOTES ON SALT II TODAY

The Senate Foreign Relations Committee plans to vote approval today of the SALT II Treaty it has been considering for the past several weeks. It is a foregone conclusion that the committee will approve the treaty, along with a volume of unilateral understandings that do not change the text of the treaty or require Soviet approval or renegotiations. The full Senate will then get its chance at the treaty sometime later this month, perhaps around Thanksgiving.

STATEMENT OF DR. JACK VORONA

INTRODUCTION

This illustration appeared in a Soviet journal published in the 1960s. It shows the Soviet perspective of world science leadership—past, present and future, and reflects their often stated goal of superiority in science and technology. My presentation today provides a brief status report on the Soviet progress toward this goal; its translation into military hardware during the past decade and our prognosis for the next. I will also address the subject of technology transfer and its relationship to Soviet weapons system acquisition.

THE SOVIET TECHNOLOGICAL BASE

The present and near term Soviet military capability reflects the achievements of a technological base that has grown steadily during the last decade. The high priority military R&D sector received regular and large infusions of capital investment leading to significant growth in those research, design and test facilities so critical to weapons development. For example, there has been roughly a 30 percent growth in aerospace facilities. A concurrent increase in the size of the Soviet R&D manpower force has also been noted. In 1979, this force was estimated at 800,000 scientists and engineers—the world's largest. In sheer numbers, the Soviets passed the U.S. in the mid-1960s. In addition, at least 270,000 new engineers are being graduated each year—a rather phenomenal number by U.S. standards. This is not to imply that the large Soviet R&D manpower force is totally committed to military R&D, nor does it address factors such as productivity, quality and utilization—but it does imply a large resource available to a sector that commands a high priority in resource allocation. Indeed, we believe the best qualified of this important R&D manpower resource are earmarked for the defense sector. We believe this trend in facilities and manpower will continue through the next decade.

The Soviets have very obviously committed themselves to the creation of a technology base second to none. The remainder of this briefing will describe some of the resultant military capabilities.

STRATEGIC WEAPON SYSTEMS

The Soviets have significantly improved their strategic missile capabilities over the past decade. They increased the number of intercontinental ballistic missile launchers from 1050 in 1969 to about 1400 in 1979, as is shown in this comparison chart. During this period, they developed and deployed four new ICBM systems with numerous payload variants.

They added flexibility to their force with the mobile SS–20 intermediate-range ballistic missile. During this past decade, they also developed multiple independently targetable reentry vehicles, or MIRVs for the ICBMs as well as the SS–20.

As a result of this force modernization and expansion, the Soviets improved the reliability, range, payload, and accuracy of their ballistic missiles. The improvements in payload and accuracy resulted in an improved hard target kill capability.

Further, the Soviets increased the survivability of their force by deploying missiles in silos with substantially greater structural hardness.

Quite independent of SALT II, we believe during the next decade the Russians will continue to improve the quality of their strategic land based missile force—striving for higher reliability, faster response time and even greater accuracy.

In the last 10 years, the Soviets introduced four classes of new ballistic missile submarines (SSBNs). They also reached the limit of 62 accountable SSBNs and 950 modern SLBM launchers allowed by the interim agreement of 1972 as shown here.

Although only a small portion of the Soviet SSBN force is maintained on operational patrol, the long-range missiles of the DELTA class SSBNs can reach the United States while still in Soviet ports. The Soviets now have over 30 operational DELTAs. The DELTA I's and II's are armed with the SS–N–8, a single warhead missile with a range of about 8000 kilometers. The Soviets have begun to deploy the SS–N–18, a missile installed in the DELTA III. This missile has a range of about 7500 kilometers and a post-boost vehicle capable of dispensing MIRVs. As a result of these developments, the percentage of submarines whose missiles can hit the U.S. will rise significantly in the near future. Moreover, they are expected to introduce at least one new class during the coming decade whose ballistic missiles will probably feature improvements in yield, accuracy and range. We also see under development the SS–NX–17, a solid propellant missile with a presumed MIRV payload.

Throughout the past decade the Soviets maintained their older heavy bomber strike force of some 140 TU–95 BEAR and M–type BISON aircraft. In addition, some 40 BISON are now configured as tankers but could be reconfigured as bombers with little effort.

During this time, the Soviet Union developed and deployed a new bomber (BACKFIRE) capable of both theater and intercontinental delivery. Staging from Arctic bases and refueled, the BACKFIRE can cover virtually all targets in the U.S. and return to the Soviet Union. On a one-way mission, it can deliver ordnance anywhere in CONUS and recover in third countries without refueling. Approximately 150 of these versatile, multipurpose aircraft have been produced and are assigned to both Soviet Long-Range and Naval Forces.

The BISON tankers are able to refuel BEAR, BISON, and BACKFIRE bombers. The Soviets may develop a new tanker using the IL–76 CANDID jet transport as an airframe, and/or convert the remaining BISON bombers to tankers.

The Soviets are almost certainly in the process of developing a new long-range bomber to replace their aging BEAR and BISONs. This new bomber could appear in the early- to mid-1980s and can be expected to feature characteristics similar to the U.S. B–1. Introduction by the Soviets of a new cruise missile carrier in the decade of the 1980s must also be considered a very real possibility.

The Soviets are vigorously continuing to pursue developments of strategic air defense and ABM systems. They have, over the past 10 years, maintained their Moscow-based anti-ballistic missile system. This system, based largely on older technology, will require significant modifications and/or replacement to counter sophisticated threats. Needed developments would include discrimination radars capable of handling large numbers of targets and high performance intercepter missiles. There is every indication the Soviets are pursuing R&D supportive of these requirements.

For example, they are apparently developing a new ABM system—whether this system is designed for national deployment is not yet resolved. We would expect to see the Soviets continue ABM system development exploring the application of both conventional and unconventional technologies.

In air defense, the Soviets, with their present interceptor and ground based SAM systems, have a significant capability to defend against medium and high altitude penetrators.

During the past 10 years, the Soviets concentrated most of their efforts on force modernization—developing and deploying more capable radars and better data transmission systems so as to give Soviet commanders a near-real-time air situation display, a necessity for the control of his very numerous interceptor and SAM forces. A critical vulnerability, however, exists at low altitudes. In the 1980s, therefore, we anticipate deployment of large numbers of look-down/shoot-down interceptors, the SA–X–10 low altitude SAM system, and extensive ground radar network and, quite possibly, AWAC type aircraft. An effective defense against cruise missiles would of course, represent a much more difficult problem requiring severe technological and deployment commitments. In view of past Soviet emphasis on the air defense of their homeland, we expect them to bend every effort in the year ahead to counter the air breathing threat.

Starting from the launch of SPUTNIK 1 in 1957, the Soviet space program developed into an expansive program encompassing all generic mission areas one would expect a super power to exploit. With well over 75 space launches in each of the last 10 years, their space program is one of extreme diversity ranging from the orbital interceptor to the purely scientific and exploratory—the lunar and planetary program. However, it is dominantly military in character. They are gradually expanding civilian applications, but these are overshadowed numerically by the military space program which includes the aforementioned orbital interceptor, communications, meteorological, naval support, and reconnaissance and surveillance satellite systems.

The high Soviet launch rate is expected to continue for the next several years and their space program will continue to produce steady gains in reliability, sophistication, and operational capability.

TACTICAL WEAPON SYSTEMS

A development pattern, smilar to that for strategic systems—with equally impressive results—has been noted in the tactical weapons arena.

Although the achievements in the tactical ballistic missile area have not been as numerous as those in the strategic area, they have been significant. During this period, the 150 mile SCUD and 500 mile SCALEBOARD short-range ballistic missile systems were replaced by or augmented with the newly developed SS–21 and SS–22 SRBM systems.

Tactical missile systems of the next decade will probably incorporate new technology to make them lighter and more mobile, more accurate, more responsive, and more lethal. We might expect to see new developments in land navigation systems and communications to speed targeting. The lower velocities for short-range missiles would make terminal homing systems more feasible than for ICBMs. Finally, the greater variety of targets for tactical missiles may well lead to the development of specialized conventional or nuclear warheads.

As you know, the number of tactical missiles is not constrained by SALT Treaties. Therefore, we may see increasing numbers of tactical missiles deployed as SALT-accountable ICBMs are diverted from peripheral targets.

NAVAL FORCES

Impressive submarine production dominates Soviet naval accomplishments. In addition to the YANKEE and DELTA strategic submarine construction programs, the Soviets produced two versions of improved VICTOR Class nuclear attack submarines (or SSNs) and converted some cruise missile and ballistic missile units to SSNs. Improved CHARLIE Class nuclear cruise missile submarines (SSGNs) were introduced as well as the prototype for new class. Diesel-electric submarine production continued with the TANGO Class general purpose attack unit. In the next decade, overall submarine numbers may decline slightly as older units are phased out but the force will become proportionately more nuclear and militarily capable.

New classes of surface combatants during the past 10 years have included two air-capable ships, MOSKVA and KIEV, and guided-missile cruisers of the *Kresta* II and *Kara* classes. What could be the first of a class of nuclear-powered cruisers displacing over 20,000 tons is being fitted out in the Baltic. Conventionally and nuclear powered major combatants will continue to be developed during the coming decade, possibly including an aircraft carrier. The Soviet Fleet is unlikely to grow in numbers beyond the present level of approximately 200 general purpose submarines, some 300 surface combatants, about 300 auxiliaries and replenishment ships, and around 100 amphibious warfare units. However, qualitative improvements in the Force are anticipated with the introduction of modern and sophisticated weapons systems and sensors. Platform construction will keep pace with technology and the Soviet Union will maintain its status as the world's largest producer of submarines and surface combatants for peacetime presence and wartime combat.

The Soviets are continuing evolutionary improvements in their ASW (anti-submarine warfare) capabilities against both strategic and general purpose forces. Most combatants have some ASW capability and the trend is expected to continue. Although major ships, submarines and combat aircraft of the Soviet Navy include in their missions defense against Western aircraft carriers and interdiction of major shipping lanes, we estimate that the Soviets give the highest naval priority to ASW against ballistic missile submarines.

In summary, the Soviets will continue to improve their capabilities to conduct distant operations with the introduction of new and sophisticated platforms and weapons systems. However, revolutionary improvements in capabilities or force levels are not anticipated, despite their thorough understanding of the applicable technologies.

TACTICAL AIR

During the past 10 years the Soviets deployed three aircraft designed for ground-

attack missions. These three aircraft, the Fencer A, Fitter D, and Flogger D, have increased radius capabilities, increased payloads, and the ability to deliver air-to-ground ordnance more accurately when compared to older Soviet fighters. In addition these aircraft may have ECM and ECCM equipment onboard, to aid in penetrating defenses. The newer Soviet ground-attack aircraft employ a wide variety of air-to-ground weapons including free-fall and precision guided bombs, rockets, guns and tactical air-to-surface missiles. The Fencer A, Flogger D, and Fitter D are able to operate at night and in adverse weather; however, visual acquisition of the target is still required for most effective operations.

During the next 10 years the Soviets are expected to improve the capability of their ground-attack aircraft to penetrate enemy defenses at low altitude and to improve the accuracy of their air-to-surface weapons. Improved navigation systems as well as more accurate bombing/navigation radars are expected to improve the all-weather capability of Soviet ground-attack aircraft. In addition the Soviets are expected to deploy precision guided munitions using laser or anti-radiation homing guidance.

During the past 10 years the Soviets deployed a wide variety of fighters that have all-weather intercept capability. These aircraft have a wide variety armament including guns, infrared and semiactive radar guided missiles.

During the 1980s the Soviets are expected to continue developing and deploying new fighter aircraft.

Soviet fighters currently are not so totally defense oriented as they were in the 1950s and 1960s. Ground attack capabilities are being emphasized and it appears reasonable to expect significant improvements in this area during the 1980s to include new aircraft, new air-to-surface missiles, new armament and more effective means of weapon delivery.

Air superiority however, can be expected to continue to receive priority attention during the 1980s. The Soviets may decide that current fighters, such as the MIG–21 (Fishbed) and MIG–23 (Flogger), are unable to effectively counter current and projected Western fighters. New Soviet air superiority fighters are anticipated for the 1980s.

Since 1976 the Soviets deployed aircraft carriers with the YAK–36 (Forger) vertical takeoff and landing aircraft aboard. The YAK–36 is a short-range, subsonic aircraft with limited payload capabilities. The Soviets undoubtedly have R&D underway to explore a next generation carrier aircraft with enhanced performance to include supersonic speeds, longer ranges, larger payloads and other launch and recovery techniques.

Helicopter development has also been very active during the past 10 years. The HIND, the first Soviet rotary wing aircraft designed as an attack helicopter, is deployed in large numbers. The HIP was modified to become the world's most heavily armed helicopter. Variants or new designs are expected in the future to upgrade the aging fleet of observation and utility helicopters. A new ship based ASW rotary wing aircraft is expected as well.

SOVIET TANK DEVELOPMENT

From World War II until the 1960s, the Soviets methodically developed and deployed a number of medium tanks including the T–34/85, T–44, T–54, T–55, and T–62. While the change from model to model was rather gradual, the combat capability of the T–62 was far superior to the older models. These significant strides were made with a minimum of technological risk. During the 1970s, the Soviets fielded two new tanks, the T–64 and T–72. While adherence to traditional design practices in these tanks are apparent, their significant improvements in firepower and protection place them in a family apart from previous Soviet tanks. In keeping with tradition, we expect that the T–64 and T–72 will serve as the basis for follow-on development which we should see in the form of a new follow-on medium tank.

Soviet artillery modernization programs have resulted in the fielding of an impressive array of new equipment. This includes self-propelled 122 mm and 152 mm systems which are gradually augmenting and replacing towed weapons of similar caliber. These self-propelled systems provide improved mobility, increased crew protection and shorter response time. In addition, multiple rocket launcher systems of improved design, larger caliber, and greater range have been fielded. To match their improved artillery firepower, the Soviets also developed new target acquisition, observation, surveillance, and fire control equipment. Continued application of the self-propelled design principle to different cannon and rocket artillery can be expected in the 1980s. Additionally, ammunition improvements will be made to achieve greater range and lethality.

Soviet infantry weapons have continued to undergo improvement during the 1970s. The RPG–7 antitank grenade launcher is still held in large quantities but a new version, the RPG–16, provides greater range and lethality. A new family of small arms firing 5.45 mm ammunition is now making its appearance. The Soviet development of this cartridge follows the Western trend to smaller caliber military rounds that started in the 1950s and resulted in the widely-used U.S. 5.56 mm cartridge. The AK–47 assault rifle which fires this new Soviet ammunition is similar in basic design to the older AKM, a weapon that has been widely distributed not only to Soviet forces but to many countries throughout the world. Improvements in infantry weapons during the 1980s will be directed at incorporating evolutionary design changes in weapons and ammunition and the gradual replacement of older weapons with the more modern systems.

A new generation of Soviet antitank guided missiles was fielded during the past decade. The missiles feature semiautomatic guidance, provide increased armor penetration, improved hit probabilities and generally greater range capabilities than earlier systems. Mounting antitank missiles on helicopters also reached a more advanced state of development, particularly during the past 5 years. Future Soviet antitank missiles will emphasize armor penetration and will incorporate improved guidance with a fully automatic system being a major goal.

During the last 10 years the Soviets continued to improve the mobility, firepower and target handling capability of their ground forces' air defense umbrella. They have added two new tactical surface-to-air missile systems to the three which were already deployed in 1969. These five systems complement each other in range and altitude capabilities thereby providing a formidable air defense shield for their ground forces. The trend of improving air defense coverage is expected to continue through the modification of existing systems and the introduction of new systems to supplement or replace them.

The Soviet armed forces are considered to be the best equipped and trained forces for launching and sustaining chemical attacks. Their force posture and capabilities for survival and operations in a toxic environment are currently unequalled by any other forces.

A large quantity of specialized decontamination and reconnaissance vehicles are integrated throughout all service components of the Soviet forces. Soviet combat and combat support vehicles are designed and equipped to operate in a contaminated environment. For example, the armored personnel vehicle, the latest T-series tanks, mobile repair shops and command and control vehicles are equipped with filtration systems capable of preventing toxic agents from entering the vehicles.

Soviet forces have available to them a large quantity and variety of chemical weapons and delivery systems. The chemical agents available for employment include highly lethal nerve agents and the older type agents such as mustard and hydrogen cyanide. These agents can be delivered to forward targets by artillery, multiple rocket launchers, tactical rockets, and to deep targets by missiles and aerial bombs.

As an indication of the importance that the Soviets place on chemical warfare, the chemical troop organization has been expanded in recent years and chemical specialists have been integrated into all force levels. In some units, platoons have been upgraded to companies, companies have become battalions, and battalions, regiments.

SOVIET TECHNOLOGY DEVELOPMENTS

Pacing each of the many new and improved Soviet weapon system developments is a very large research effort in the sciences and technologies. Technical advances in such fields as materials, propulsion and electronics permitted the weapon system developments that we observed in the Soviet Union during the past 10 years. The introduction of yet improved military hardware will continue to depend on their success in advancing technological frontiers. Some high technology areas such as directed energy appear to have a significant potential for weapons application. For example, the USSR appears to be roughly comparable to the U.S. in the capability to develop high energy laser systems. They have been working on the basic laser technologies as long as the U.S., and apparently have the expertise, manpower, and resources to develop any type of weapon laser that the U.S. could.

Soviet awareness of the potential of electromagnetic pulse (EMP) weapons is indicated by articles in their open literature and they are actively pursuing development of the very high peak power microwave generators that would be relevant to such application.

Finally, the Soviets have been aware of and interested in particle beam weapon (PBW) concepts since the early 1950s. Within the USSR, there is considerable work in areas of technology relevant to PBWs. However, much of this technology has probably been developed for other applications. At this time, U.S. and Soviet accomplishments in the relevant technologies are roughly equivalent.

TECHNOLOGY TRANSFER

The foregoing discussion would be incomplete however, without examining the relationship of technology transfer upon their military posture.

In addition to being the source of much of the Soviet Union's electronic and computer technology and manufacturing "know-how," the industrialized Free World has, during this decade, supplied their industrial sector with billions of dollars worth of efficient machine tools, transfer lines, chemical plants, precision instrumentation, and associated technologies. These goods and technologies have unquestionably played a major role in the modernization and expansion of Soviet industry. Although much of the technology embodied in the Western equipment is known and understood by Soviet technicians, their purchase via long term low interest loans has enabled the Soviet Union (and other Warsaw Pact countries) to achieve an industrial expansion at a substantially faster rate than would have been possible with indigenous resources. Unfortunately, "tracking" those acquisitions and proving that they have resulted in specific improvements in Soviet military capabilities is quite difficult inasmuch as equipment or technology must be acquired, assimilated and placed into pro-

duction. This can take years. In the process, it may be modified to fit the particular Soviet circumstance until it loses its original identity and becomes "Sovietized." The result is that the final product might be without any visible evidence of a Western contribution. It is well known that the Soviets follow Western developments avidly through acquisition of scientific and technical journals, attendance at conferences and symposia, scientific exchange visits and the purchase of at least one copy of each of the 80,000 U.S. government documents and government contractor reports deposited with the National Technical Information Service of the Department of Commerce each year.

The actual improvements in Soviet military capabilities wrought by the acquisition of Western technology are often difficult to quantify. For example: truck tires possessing one-third greater wear because of superior carbon black from a Western-built plant or long range transport aircraft that suffer less down time due to the use of engine components produced on Western manufacturing equipment.

Nevertheless, we can cite some examples of Soviet acquisitions that we believe have made or are making a distinct contribution to the Soviet military procurement effort. In 1973 and 1974, 164 precision miniature ball bearing grinding machines were delivered to the Soviet Union. There was concern that these machines enabled the Soviets to develop their MIRV capability. Actually, the first machines were not delivered until after the Soviets had begun testing their relatively unsophisticated first generation MIRVs. However, we have no doubt that these machines are making a distinctive contribution to the Soviet military effort and could very well be producing the precision miniature ball bearings used in current and follow-on high quality MIRV guidance systems.

Another such example is in the production of Soviet KAMAZ trucks. The Kama River truck plant located near the city of Neberezhnyye Chelny in the USSR was built almost exclusively with Western technology. Among other things, the U.S. supplied the automated foundry for making the engines, the production line and the computer that controls the plant. The plant, when it reaches full production, will produce 150,000 trucks and an additional 100,000 engines per year. These trucks are more efficient and reliable than those they are replacing and have a 60 percent greater haul capability on a one-for-one basis. Many of these trucks indeed are going into the civil economy, (where they are always subject to call by the military); but others are actually being used by the military. We continue to receive unconfirmed reports that some of the excess engines may be destined for other military vehicles.

An entire series of Soviet computers is based on IBM 360 and 370 computers that were illegally diverted into the USSR in 1971 and 1972. These diversions via a Free World firm may have been the cornerstone for the Soviet/Warsaw Pact development of the RYAD I and II computers. The number of known cases of COCOM embargoed computers that have been diverted into the Soviet Union may be just the tip of the iceberg.

While the U.S. is at the forefront of electronics manufacturing, we are but one of about 11 Free World suppliers of metal working and fabrication equipment. For example, an Austrian firm is the world's principal builder of precision rotary forging equipment—an exceptionally efficient machine for producing high quality gun tubes. No other type of machine in the world is competitive with these machines. The Soviets have been one of the principal customers for these precision machines for almost two decades, purchasing probably hundreds of millions of dollars worth of equipment. These machines can radically increase production rates while simultaneously producing a much higher quality barrel required for the greater rates of fire and higher muzzle velocity of today's weapons. In addition, with today's higher quality steel, the overall life of artillery weapon systems is increased. As a result, the Soviets probably have the greatest gun-barrel manufacturing capability in the world.

Soviet acquisitions are not limited to purchases and diversions of equipment and goods. Soviet scientists and engineers study Western scientific developments and acquire technology know-how. I'll have more to say on this later but one specific example with direct military application that highlights the problem is that of a Soviet exchange student who came to the U.S. in the academic year 1976–77. He studied at one of our leading universities in the science involved in fuel-air explosives. It appears this Soviet "student" is himself involved in research directly related to fuel-air explosives.

In addition to the examples cited above we see the Soviets making a concerted effort to gain as much information, technology and equipment as possible on new and emerging technologies which may not have reached the military application phase in the U.S. but which certainly have the potential for such use.

Some examples are magnetic bubble memory technology for computers, genetic engineering, but more specifically the recombinant DNA (deoxyribonucleic acid), fracture mechanics and superplasticity. To be more explicit, under the auspices of an agreement between the U.S. and Hungarian Academies of Science, one Gyorgy Zimmer, who heads the Hungarian effort in magnetic bubble research, has been coming to the U.S. periodically and conducting research at one of our leading universities, attending conferences and visiting other facilities to observe and discuss American research. As in all other fields, we believe the Soviets have access to most if not all Hungarian and other Warsaw Pact research and information including that which Mr. Zimmer gains in the U.S. I would be surprised if this were not the case—indeed, foreign visitors tend to confirm this fact.

BILATERAL AGREEMENTS

In addition to the acquisition of Western industrial plants and equipment, the decade of the 70s has also witnessed greatly expanded contact between the Free World and Soviet scientists and engineers. The scope and depth of Soviet interest in the advanced and emerging technologies is exemplified by the exchange agreements the Soviets have negotiated with the U.S. since 1972. There are 10 bilateral agreements in existence with the U.S. comprising about 240 or so working groups in which Soviet and U.S. personnel are jointly working, including such subtopics as use of computers, metallurgy, microbiology, chemical catalysis, physics, science policy, metrology, earthquake prediction, fast breeder reactors, controlled thermonuclear research and MHD power generation.

One of the provisions common to many of these bilateral agreements encourages the establishment of separate agreements between individual U.S. companies and entities of the Soviet government such as the State Committee for Science and Technology. The Soviet Union has negotiated such agreements with a large number of U.S. companies; significantly, we agree, with companies who are "front-runners" in areas in which the Soviets are deficient. There is no formal U.S. government oversight of these agreements unless the accord results in the sale or transfer of an item or technical data that requires a validated export license. We view these agreements as still another mechanism for the potential transfer of advanced technology.

STUDENT EXCHANGE PROGRAM

Additional bilateral agreements that we believe serve as a very effective transfer mechanism are those that provide for the student exchange program that exists between the U.S. and the USSR/Warsaw Pact/China. The Soviet exchange students that come to the U.S. for an academic year usually already possess the equivalent of a U.S. PhD degree, average about 35 years of age, and probably have about 8 years of practical experience. Example of topics the Soviet students study are:

Research in Digital Automatic Control and Diagnosis.

Ferroelectric Ceramics.

Technological possibilities and efficiency of Computer application for control of machine-tool systems with digital set control.

Passage of shock waves through inert and combustible heterogeneous mixtures.

Conversion of hydraulic signals into electrical signals.

Photoelectric phenomena in semiconductors.

Solid state electrochemical thermodynamics.

This is contrasted with typical examples that American students study:

Language and style in the Chet'i Minei of Dmitri Rostovsky.

Socio-Economic developments of formal organization in Vilnius.

The professionalization of Russian psychiatry 1860–1911.

Marriage patterns in Russia and the USSR 1897–1975.

The state and the economy in Catherinian Russia.

Soviet criminal law and codification.

The development of medical sciences in 19th century Russia.

This disparity is further highlighted in this slide. It can be seen that U.S. students study language, history, social science, and art, while the Soviets study the hard sciences and engineering.

In summary, the Soviets are seeking Western technology and equipment by any and all means. In the past, Soviet weapon designers appeared to be somewhat constrained in the effectiveness of the products they could develop by a limited technological base for specialized components. Technology transfer affords them the opportunity to rectify such deficiencies. Much of what they acquire is slated for the industrial sector, but that this equipment and technology has been and is important to the Soviet military is axiomatic. As I have indicated the audit trail for Western equipment and science and technology is sometimes difficult to follow and its effects even harder to quantify, but we are positive it is there and making a very significant contribution.

It was my intention that this presentation convey to you the intensity, the momentum, the continuity, the seriousness and the profusion of Soviet military systems acquisition. The huge research base which I earlier described is right now planting the seeds for even more sophisticated weapons of the 90s. Recall the first VG which showed the Soviet prediction of their technical leadership commencing in the late 20th century. By whatever yardstick one applies, they are clearly intent upon fulfilling that prophecy.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from West Virginia.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend beyond 15 minutes, and that Senators may be permitted to speak therein up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

TAKING AWAY A BLACKMAIL CARD

Mr. HARRY F. BYRD, JR. Mr. President, I have in my hand an excellent article from the Omaha World-Herald of Tuesday, November 13, 1979. This article in today's World-Herald contains an interview with the distinguished and able Senator from Nebraska. I feel that his comments on the Iranian matter are so wise and sound that I ask unanimous consent that this statement be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXON: OIL CUTOFF STOPS IRAN "BLACKMAIL"

(By Darwin Olofson)

WASHINGTON.—Sen. J. J. Exon said Monday that President Carter's action in cutting off oil imports from Iran takes a "blackmail card away" from the Iranians.

"I certainly feel this is a step in the right direction, and I think the President will have the total backing of the people on this," Exon said.

Approval of Carter's action also came quickly from Reps. John Cavanaugh of Omaha and Doug Bereuter of Utica.

But Rep. Virginia Smith of Chappell said the President could have taken "much more punitive" measures by freezing all of Iran's assets in the United States and calling for a worldwide embargo on Iranian oil.

NOT A HEAVY PENALTY

"It seems to me that this (Carter's action) is not a heavy penalty on Iran for holding 60 of our people," she said, adding that halting Iranian oil imports would penalize Americans.

"I think it's going to create hardships for us in consumption and availability of oil supplies," Cavanaugh said, adding:

"But I think we clearly have to demonstrate to Iran and the rest of the world that our energy dependence cannot be used to humiliate us as a nation and that we will make whatever sacrifices are necessary to assure our political integrity and independence."

Bereuter said he felt "the American people were ready for some kind of action, including this one."

He also said he thought the situation in Iran was one that would make people willing to cut down on their fuel consumption.

ECONOMIC EMBARGO

Both he and Cavanaugh suggessted that Carter should go further and ask other nations to join the United States in halting imports of Iranian oil.

Cavanaugh said he felt western nations also should be urged to join in "a total economic embargo of Iran until it establishes itself as a responsible member of the world community."

Exon, a member of the Senate Armed Services Committee, was notified by the Pentagon of the president's decision two hours before the oil cutoff announcement was made at the White House.

He said he had talked to Vice President Walter Mondale Monday morning about the situation in Iran and the status of the Americans held captives there.

"Unfortunately, there's nothing new to report," he said. "If anything, there seems to be a stiffening of (Ayatollah Ruhollah) Khomeini's position."

VERY DISTURBED

No one would have been surprised, Exon said, if Iran had stopped oil shipments to the U.S.

"It's much better if we tell them we're going to take that blackmail card away from them," he added.

Exon also said he was "very much disturbed" by what appeared to be the Soviet Union's lack of responsiveness to requests that it exert pressure on Iran to help secure the release of the American hostages.

"The Soviets once again seem to be taking advantage of every situation around the world to heighten tensions rather than lessen them," he said.

He said Russia's attitude has a bearing on his feelings about the SALT II treaty with the Soviet Union.

Supporters of the treaty say it should not be linked with other considerations, he said, "but I do not believe that we can or should say that nothing under the sun should be linked to SALT."

Exon said the intentions of parties to the treaty are important and should be considered.

Russia seems to be ignoring all pleas, including those of the United Nations and the pope, to help ease the situation in Iran, he said.

He also said he felt whatever shortfall in oil supplies that Carter's action might involve could be overcome if Americans would drive two miles less a day, "which we can all arrange to do."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

MILITARY CONSTRUCTION APPROPRIATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 4391, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 4391) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments, as follows:

On page 2, line 7, strike "$668,808,000" and insert "$779,203,000, of which $1,340,000 may be paid for use after 1960 by the Government of the United States of land on Roi-Namur Island, Marshall Islands District of the Trust Territories of the Pacific Islands, as authorized by the Military Construction Authorization Act, 1980,";

On page 2, line 13, strike "$47,700,000" and insert "$53,700,000";

On page 3, line 3, strike "$527,305,000" and insert "$566,160,000";

On page 3, line 5, strike "$51,549,000" and insert "$60,549,000";

On page 3, line 18, strike "$439,786,000" and insert "$593,650,000";

On page 3, line 20, strike "$41,000,000" and insert "$47,000,000";

On page 4, line 11, strike "$175,695,000" and insert "$258,630,000";

On page 4, line 11, strike "and in addition $39,200,000 which shall be derived by transfer from Military Construction, Air Force 1979/1983, to remain available until September 30, 1984;";

On page 4, line 21, after the colon, insert "Provided further, That $39,200,000 shall be transferred to "Military Construction, Defense Agencies, 1979/1983" from "Military Construction, Air Force, 1979/1983";";

On page 5, line 1, strike "$10,000,000" and insert "$14,000,000";

On page 5, line 12, strike "$20,000,000" and insert "$23,700,000";

On page 5, line 20, strike "$30,000,000" and insert "$36,000,000";

On page 6, line 2, strike "$25,000,000" and insert "$30,000,000";

On page 6, line 10, strike "$15,000,000" and insert "$18,300,000";

On page 6, line 17, strike "$10,000,000" and insert "$12,000,000";

On page 7, line 1, strike "$1,593,822,000" and insert "$1,689,925,000";

On page 7, beginning with line 5, insert the following:

For the Army:

Construction, $11,500,000;

For the Air Force:

Construction, $12,000,000;

On page 7, line 10, strike "$150,735,000" and insert "$154,025,000";

On page 7, line 11, strike "$1,443,087,000" and insert "$1,508,500,000";

On page 7, line 17, strike "$645,000,000" and insert "$716,216,000";

On page 7, beginning with line 19, strike through and including page 8, line 22;

On page 8, beginning with line 23, insert the following:

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $5,000,000.

On page 12, line 15, after "procurement" insert a comma and the following: "except that this provision shall not apply to the procurement of steel for any project of the NATO infrastructure program if the Secretary of Defense certifies to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate that an effort was made to have the steel procurement for such project considered as a separate item of the project involved, the result of that effort, and that it is in the United States interest to accept the action taken with respect to the procurement of steel for such project".

On page 13, beginning with line 1, insert the following:

"SEC. 115. (a) Funds appropriated under this Act for the Air Force shall be available in an amount not to exceed $1,000,000 to assist States and local governments in potential MX basing areas in meeting the costs of establishing planning organizations to conduct studies on and develop plans with respect to possible community impacts of the MX program, including studies and plans with respect to environmental and socioeconomic impacts, State and community land use planning, and public facility requirements.

"(b) The Secretary of Defense shall carry out the provisions of this section through existing Federal programs. The Secretary is authorized to supplement funds made available under such Federal programs to the extent necessary to carry out the provisions of this section. The heads of all departments and agencies shall cooperate fully with the Secretary of Defense in carrying out the provisions of this section on a priority basis."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be permitted to suggest the absence

of a quorum without the time being charged against either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR NO ROLLCALLS BEFORE 2 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, this has been cleared with Mr. HUDDLESTON and Mr. STEVENS, the managers of the bill. I ask unanimous consent that there be no rollcall votes in relation to the bill before 2 o'clock today, and that any that are ordered prior to that time, if such be ordered, occur beginning at 2 p.m.

Mr. STEVENS. There is no objection to that procedure.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Debate on this bill is limited to 1 hour, to be divided and controlled by the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Alaska (Mr. STEVENS) with 30 minutes on any amendment and with 20 minutes on any debatable motion, appeal, or point of order.

The Chair recognizes the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as amended be considered as original text for the purpose of further amendment with the understanding that no points of order be considered as having been waived by reason thereof.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, the military construction appropriation bill for fiscal 1980, as reported from committee, includes funding of $3,888,743,000 for the planning, design, construction, alteration, and improvement of military facilities both in the United States and overseas. This is $7,880,000 more than the appropriation for fiscal 1979, $16,682,000 more than the budget request, and $406,752,000 more than the House bill.

The major unbudgeted item in the bill is $57 million for construction of test facilities for the new MX missile at Vandenberg Air Force Base, Calif. The need to have these funds included in the fiscal 1980 appropriation bill only recently came to the attention of the committee. The Appropriations Subcommittee on Military Construction and the Armed Services Subcommittee on Military Construction and Stockpiles held a joint hearing on October 29 on the proposal, and the item, which had been added to the authorization bill during House floor consideration, was included in the conference version of the Military Construction Authorization Act.

According to testimony, funds for the test facilities are needed in December of this year in order to preclude either slippage in the MX–IOC date or a full-scale production decision prior to flight testing. With the funds for the test facilities in this bill, the Air Force would expect to award contracts on the project beginning in February 1980—only 3 months away.

The committee has also included authority for the Air Force to use up to $1 million of its budget to assist States and local governments in potential MX basing areas in planning to handle the impact of the MX program. This would be accomplished through the establishment of planning organizations which would conduct studies and develop plans to deal with the environmental and socioeconomic impact.

The committee has also approved the full $78.2 million requested for space shuttle construction at Vandenberg Air Force Base and Johnson Space Center (JSC), Tex. While the committee is aware of the many problems which have plagued the space shuttle program, it believes that the United States is fully committed to the space transportation system and that, consequently, every effort should be made to bring the system to operational status as soon as possible.

The $78.2 million involves $65.8 million for construction of launch-related facilities at the west coast launch site which will be under Department of Defense control. The east coast launch site at Cape Kennedy, Fla., will be operated by NASA and is not funded in this bill. DOD missions will, however, be launched from both sites. Shortly after launch, control of a Shuttle flight will shift from the launch facility to mission control facilities at NASA's Johnson Space Center. The other $12.4 million in the bill is to provide protection at Johnson Space Center for the classified aspects of DOD missions.

The bill includes the full authorized amount of $120 million for the Guard and the Reserves—$23.7 million for the Army National Guard, $30 million for the Army Reserve, $18.3 million for the Naval Reserve, $36 million for the Air National Guard, and $12 million for the Air Force Reserve. The amount is $20 million more than the budget request of $100 million, but $48 million less than the fiscal 1979 appropriation. The additional funds were included because the Guard and Reserve now constitute about 30 percent of our fighting force and have assumed a number of new missions which have been traditionally associated with the active forces.

The bill also contains the full budget request for planning and design funds. The House had cut $22.9 million of these funds, based principally on concern over design change orders, lost design and breakage. While the committee agrees with the House that there are a number of problems, it appeared that with the reduction it would be difficult, if not impossible, for the services to bring the construction program to the 35 percent design status for submission to Congress.

Furthermore, the bill includes $3 million above the budget request for planning and design for the conversion to coal or alternate fuels of alternate fuel capable plants which currently are burning oil or gas. The U.S. overdependence on foreign sources of energy continues to pose a serious threat to the security of our Nation. Since national security is the primary mission of the Department of Defense, it is only fitting that DOD lead the way in switching from oil and gas to domestically available fuels.

The bill reflects a number of changes from the budget request for construction in Europe. While direct U.S. financing of facilities, principally for the Army and Air Force, has been reduced, the full authorized amount of $185 million has been included for the NATO infrastructure program. This is consistent with the policy that European defense expenditures should be jointly financed, not unduly borne by the United States.

At the same time, the bill does contain the requested funding for a number of facilities associated with dependents. The U.S. Army, which has the largest manpower force of the services, keeps a large portion—about one-fourth—of its total force overseas at any one time. Absent a major redirection in U.S. policy the size of that overseas force is unlikely to diminish in the near future. All the services are now experiencing some difficulties in meeting their manpower requirements under the All-Volunteer Army. With the All-Volunteer Force and today's norms, severe restrictions on dependents are only likely to provide a further disincentive for enlistment or reenlistment. In addition, numerous commanders have reported to the committee that morale, discipline and performance are generally better in those situations where dependents are present.

Most important for present purposes, however, is the fact that the projects requested in the fiscal 1980 budget are necessary to help eliminate the backlog of facilities required to serve dependents already abroad.

In summary, most of the funding in the fiscal 1980 bill falls into one of four categories. The first is support of strategic systems and includes, in addition to the MX facilities discussed earlier, funding for the Trident facilities on the west coast at Bangor, Wash., facilities for the *Poseidon* force on the east coast at Kings Bay, Ga., and support facilities for the Trident I missile, which is now being retrofitted in the *Poseidon*, at Charleston, S.C.

A second is support of new systems and includes funds for the air-launched cruise missile at Griffiss Air Force Base, N.Y., and other unspecified locations as well as facilities for the XM–I tank both in the United States and Europe.

A third category relates to improvements in European preparedness and a fourth to energy conservation and pollution abatement projects.

A State-by-State summary of items

funded in the bill is appended to the report, beginning on page 44.

Mr. President, in view of the budgetary constraints which have been imposed on the military construction program for several years now and in view of the need to support a number of new and expanding systems, I believe the bill before the Senate reflects the proper priorities.

Mr. President, I yield at this time to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the distinguished chairman of the subcommittee (Mr. HUDDLESTON).

It is a pleasure to be working with him again on this bill. He has provided us with details of the major points in the fiscal 1980 military construction appropriation bill. I would like to add briefly to Senator HUDDLESTON's remarks.

This bill contains $3.89 billion in new budget authority for fiscal 1980. This is $7.9 million over last year's appropriation which was considered constrained by the so-called moratorium which had been placed on military construction in recent years. As reported to the Senate, our bill is $16.7 million over the budget request. However, considering the $57 million added to the bill by the administration request for an MX test facility; $20 million added by the authorizing committees for the Guard and Reserve forces; the $185 million—$35 million over the budget request—approved for NATO infrastructure costs; and numerous other changes, I believe our subcommittee has done remarkably well to report this bill so close to the budget request and within the allocation contained in the first concurrent resolution.

I would like to stress one point. The MX test facility recommended for Vandenberg Air Force Base is not in any way connected to a particular basing mode for the MX. In a recent hearing, our subcommittee was assured by the Air Force that these proposed facilities were designed to accommodate testing for the MX missile in any basing mode. To be sure that the Department of Defense makes no decision on the basing mode, I will offer the identical language adopted overwhelmingly on the defense appropriations bill. The $57 million for the MX test facility will be a conference item since it was not considered by the House Appropriations Committee. I know that the conferees will carefully consider these proposed facilities.

The committee has carefully reviewed the projects requested in this bill. Considering the ever growing backlog of military construction, the committee has weighed the priorities and we recommended this bill to the Senate. All projects have been authorized by the Armed Services Committees which have recently completed their conference.

I take this opportunity to commend the chairman and ranking member, Senator LAXALT for their fine work throughout the year, and I urge the Senate to pass this bill as amended.

Mr. President, I am managing the bill on our side in the absence of Senator LAXALT. I ask unanimous consent to have his statement printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR LAXALT

The distinguished Chairman of our Subcommittee, Mr. Huddleston, has given the Senate a detailed breakdown on this bill appropriating funds for military construction in fiscal 1980. I would like to comment just briefly on our Committee recommendations.

As the Senate is aware, our bill is reported at $3.89 billion which is $16.7 million over the budget request. Our Subcommittee has carefully reviewed the projects requested and recommended what we feel are the highest priorities for military construction in fiscal 1980. Let me just mention a few highlights:

A sum of $57 million is recommended for MX test facilities at Vandenberg Air Force Base. These facilities are not directed at any particular basing mode for the MX. This item will be carefully considered again during the conference with the House.

Authority for the Air Force to use up to $1 million to assist states and localities which are potential basing locations to plan for the impact such basing will cause.

$78.2 million for space shuttle construction at Vandenberg Air Force Base and Johnson Space Center.

$185 million for the United States' share of the NATO Infrastructure program. Our Subcommittee will continue to carefully monitor the Infrastructure program and urge the Department of Defense to request construction projects in NATO only after the Infrastructure funding has been ruled out.

$20 million over the $100 million requested for the Guard and Reserve forces. Considering the ever growing importance our Guard and Reserve forces play in the total force concept, we must be sure to provide this part of our force structure with adequate and current facilities.

This bill, as reported, does very little to cut into the enormous backlog of military construction requirements. I believe that we must consider this backlog very carefully. With inflation out of control, this construction backlog continues to grow in dollar value if not in the number of projects. I hope that our Subcommittee will see a budget request for fiscal 1981 which takes this backlog into consideration. In recent years, the military construction budget has been the victim of cuts to make the overall defense budget meet Administration goals. I am hopeful we see an end to this type of budgeting in the near future.

I thank our Chairman, the Senator from Kentucky (Mr. Huddleston), for this diligent work on this bill. It has been a pleasure for me to work with him this year on this bill.

I urge the Senate to pass this bill as reported by our Committee.

Mr. STEVENS. Mr. President, is the bill open for amendment?

The PRESIDING OFFICER. The bill is open for amendment.

UP AMENDMENT NO. 795

Mr. STEVENS. Mr. President, I call up the amendment I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) poses an unprinted amendment numbered 795:

Insert in the appropriate place:

None of the funds appropriated under this act to continue development of the MX Missile may be used in a fashion which would commit the United States to only one basing mode for the MX missile system.

Mr. STEVENS. Mr. President, this is the amendment that was adopted by the Senate by a vote of 89 to 0 last week, after we considered the problem of what to do about the MX basing mode.

It does not commit us to any particular basing mode, but it enjoins the Department of Defense, as it uses moneys that are made available for the MX missile, not to use those moneys in a fashion which would commit the United States to only one basing mode for the MX missile.

I hope we can work out a variable basing mode concept which would not commit us to any one basing mode—as a matter of fact, one in which, to the maximum extent, the moneys would be invested in a way that would enable us to have some joint use of the facilities that might be used for the launching of the MX missile.

I hope the chairman will accept this amendment, so that the moneys in this bill would be subject to the same limitation as the moneys in the major defense appropriations bill.

Mr. HUDDLESTON. Mr. President, I thank the distinguished Senator from Alaska. I appreciate his kind comments.

I would like to note that, until very recently, the Senator from Alaska was the ranking member of this Subcommittee on Military Construction; he has made invaluable contributions over the years to these programs.

I sympathize fully with the intent of the amendment by the Senator from Alaska. The proposed basing of the new MX missile has raised a number of questions.

The question of whether it will go into the so-called racetrack mode or some other way in which it can be adequately protected and serve the security interests of the United States will have to be decided by Congress. But I think there is general agreement that we should move forward with the development and production of the new MX missile. The facilities that are provided for in this bill are for the testing of that missile. Whatever basing mode is finally decided upon, the missile will have to be fully tested before it can go into production.

Consequently, as a matter of clarification, I would ask the Senator if it not his intent that his amendment in no way preclude the expenditure of these funds in order to provide for the testing facilities, as long as those expenditures do not in any way prejudice a future basing mode decision?

Mr. STEVENS. That is my intent, Mr. President. I support fully the development of the MX missile. I think the Senate expressed its will last week, in the defense appropriations bill we passed, that we do want to see the MX missile proceed.

The statement of the Senator from Kentucky is consistent with my intention in offering this amendment. This amendment is not designed in any way to limit the testing of the MX missile or to prohibit its being tested in any one particular basing mode.

The intention of the amendment is to assure that as these funds are utilized, they will not be utilized in a manner

which would commit us to one particular basing mode, as was the expressed intention of the administration in the past. I think the administration now understands the feelings of the Senate.

Again, there is no intention, in offering this amendment, in any way to restrict the testing of the MX missile in any mode.

Mr. HUDDLESTON. With that understanding, I commend the Senator for his amendment, and I accept it on this side.

Mr. STEVENS. I yield back the remainder of my time.

Mr. HUDDLESTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. STEVENS. Does the Senator from Maine wish time?

Mr. COHEN. Yes. I would like to have a few minutes for a colloquy.

Mr. STEVENS. Mr. President, how much time do we have on the bill?

The PRESIDING OFFICER. The Senator has 27 minutes remaining on the bill.

Mr. STEVENS. I yield the Senator from Maine such time as he desires.

Mr. COHEN. Mr. President, on October 31, the Department of Defense announced that the decision to reduce Loring Air Force Base in Maine to a forward operating base, made earlier this year, would not be implemented. The Department's determination was made on the basis of its continuing assessment of the evolving strategic requirements and the need to assure maximum flexibility in the posture of our strategic and general purpose forces for the 1980's. It followed a lengthy examination of the proposed reduction which was conducted by the Military Construction Subcommittee of the Armed Services Committee.

When the Department of Defense made its October 31 decision, it notified me and my senior colleague from Maine, Senator MUSKIE, that required construction and normal maintenance and repair of facilities would be planned and programed for this base for fiscal year 1980 and future years. The condition of base housing, which has been a severe problem at Loring for a number of years, was recognized by the Department of Defense as a high priority for improvement.

My question to the respected chairman of the Military Construction Appropriations Subcommittee is this: Are there any provisions in this bill, or any language in the accompanying committee report, which would prevent the Department of Defense or the Air Force from carrying out the commitment made on October 31?

Mr. HUDDLESTON. Mr. President, I am delighted to respond to the distinguished Senator from Maine on this subject.

I point out that the senior Senator from Maine (Mr. MUSKIE) also raised this question last week, and we have gone into it in some detail.

The bill, as the Senator knows, funds the entire amount authorized for family housing, which is $1.69 billion. Included in that $1.69 billion is $716 million for maintenance and repair and $3 million for minor construction.

So I hope that within these funds, some assistance might be found for Loring. While there is a backlog of maintenance and repair projects, I think there is some flexibility in this account.

The Department could use that flexibility to accommodate the pressing needs at Loring. Certainly there is nothing in the bill that would restrict them from doing that.

Mr. COHEN. There is nothing in the bill that would restrict those improvements from being made during fiscal 1980.

The second question is: Will the Senator's subcommittee during the consideration of the administration's fiscal 1981 budget request actively consider means by which this urgent base need, especially related to housing, can be realized at Loring?

Mr. HUDDLESTON. Yes. I assure the Senator we will go into this subject very thoroughly during the hearings next year.

Mr. COHEN. I thank the Senator very much.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, if there is no one present to propose an amendment, I suggest the absence of a quorum to be charged equally between both sides.

Mr. STEVENS. Mr. President, will the Senator withhold that request?

Mr. HUDDLESTON. I withhold.

(At this point there was a colloquy between Mr. STEVENS and Mr. HUDDLESTON which is printed earlier in today's RECORD, by unanimous consent.)

Mr. STEVENS. May I inquire of the Senator, to my knowledge there will be no amendments offered from our side of the aisle on this bill. I wonder if there are amendments to come, and if there are not, whether we could not take this bill to third reading and have passage voted at 2 o'clock, as is already indicated by the unanimous-consent agreement?

Mr. HUDDLESTON. I say to the Senator from Alaska that I know of no amendments to be proposed on this side of the aisle. The senior Senator from Maine (Mr. MUSKIE) is on his way to discuss the housing situation at Loring AFB which was just raised by the junior Senator from Maine. Other than that there is a colloquy that the distinguished Senator from Colorado (Mr. HART) and I intend to have.

Mr. STEVENS. Mr. President, I think the cloakroom should notify Senators that following the colloquy which has just been mentioned by the Senator from Kentucky, it will be our intention to ask that this bill go to third reading, which would foreclose any further amendments.

As I said, I think we could have the vote at 2 o'clock. It is already in order that any votes that will take place on this bill take place at 2 o'clock. We do have a request for a rollcall vote on the bill.

So, as I said, I have no knowledge of any further amendments, and we will wait for Senator MUSKIE.

Mr. HUDDLESTON. I suggest that we wait for a few minutes on the Senator from Maine. In the meantime, I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I yeld to the distinguished senior Senator from Maine such time as he may require.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I thank the distinguished floor manager of the bill for yielding to me on a subject we have discussed informally, and which I would now like to discuss on the record.

Mr. President, on October 31, the Secretary of Defense announced that the decision to reduce Loring Air Force Base would not be implemented. The decision reflected a recognition of the strategic value of Loring as a strategic air command installation, the mission of which is to accommodate both bombers and tankers as part of our strategic deterrent forces and rapid deployment forces.

The Senate had earlier recognized the strategic value of Loring and included a provision in the fiscal year 1980 military construction authorization bill prohibiting reduction of the base. After Secretary Brown announced the decision to retain Loring, the conferees dropped the legislative provision from the military construction authorization bill, but included report language recognizing the unique strategic value of Loring.

I ask unanimous consent that the text of that language be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, I am of course pleased that the proposal to reduce Loring Air Force Base has been abandoned. With my colleagues in the Maine delegation, I have argued for 3 years that Loring's unique location in the northeast corner of the United States offered valuable strategic and logistic advantages that should be preserved and enhanced. It is most encouraging to have had that position affirmed first by the Senate, and now by the Secretary of Defense.

But while I am pleased and encouraged, Mr. President, I am also concerned with the construction needs of this valuable installation in northern Maine.

The proposal to reduce Loring Air Force Base was publicly announced in March of 1976, and apparently was under consideration within the Air Force for some years before that. For the 3 years that the reduction proposal was publicly debated, and for a period of time before, many needed repairs and renovation projects were deferred so that the Air Force could utilize available funds at other installations not scheduled for reduction. As a result, many projects, such as repair of utility lines, electrical distribution lines, replacement of roofs, painting, and general facilities repair work, were not carried out. Now that Loring's status as an active SAC base is permanent, this work should be expedited to prevent further deterioration and added expense.

In his announcement, Secretary Brown recognized that there are priority needs in fiscal year 1980, particularly with respect to housing rehabilitation.

I recognize that we are late in the congressional cycle for military construction funds. The military construction authorization bill is through conference, and we are in the final stages of shaping the appropriations for military construction.

I am deeply concerned, however, with the need at Loring for housing and facilities rehabilitation and would like to ask the floor manager of this bill, the distinguished Senator from Kentucky (Mr. HUDDLESTON) to consider the circumstances at Loring and attempt to identify funds in this legislation which might be made available for Loring. I understand that there is at least $9 million worth of housing rehabilitation work which has been deferred at Loring over the last 5 to 6 years. This work could be accomplished this fiscal year if funds were identified and made available. I am also advised that $4 million for general repair of utility systems could be immediately utilized if funds for those purposes can be identified.

I understand that, under this bill, $3 million is provided for minor construction and $716 million is provided for maintenance and repair of family housing. These programs are flexible and I would hope will provide the funding we need at Loring. The level of funding for these programs is higher in the Senate bill than in the House version. I encourage the distinguished chairman of the Military Construction Appropriations Subcommittee to retain sufficient funds in conference to accommodate these priority needs at Loring, and to seek support in the conference for identifying these priority needs at Loring as appropriate projects for funding under these provisions.

I am most appreciative of the sympathetic attitude that Senator HUDDLESTON has shown toward this problem and I am pleased to bring it to his attention on the RECORD at this time.

Mr. HUDDLESTON. I thank the distinguished Senator from Maine. I would point out that Senator MUSKIE contacted us last Friday about this problem and gave us an opportunity to talk directly with the Department of Defense. They have assured us that they intend to assist with this particular problem at Loring. As I noted previously, the committee itself has included in this bill all of the money that was authorized for family housing, the full $1.69 billion. Included in that amount is $716 million for maintenance and repair and $3 million for minor construction.

It is our position that within these funds there is ample flexibility to assist Loring. And with the expression of intent made to us from the Department of Defense in response to the request of the Senator from Maine, it is our hope that these projects will go forward.

Mr. MUSKIE. I thank my good friend from Kentucky. I am most grateful for his positive attitude and cooperation.

May I also add that I am most appreciative to the Air Force for its positive attitude toward funding of these needs, now that the decision with respect to reduction of the base has been reversed.

I thank the distinguished floor manager, my good friend from Kentucky. I yield the floor.

EXHIBIT 1

Section 809 of the Senate's bill prohibited the base realignment of Loring Air Force Base, which had been announced by the Secretary of the Air Force in March 1979, due to the significant strategic value of the Base and the complex set of evolving decisions regarding U.S. strategic programs.

The House amendment did not include this provision.

On the basis of the Secretary of Defense's decision of October 31, 1979, wherein he announced that Loring Air Force Base would remain a fully operational Strategic Air Command (SAC) base, the conferees withdrew this provision. The conferees agree with the decision of the Secretary of Defense that the reduction of Loring to a forward operating base should not occur because of the need for maintaining maximum flexibility in strategic and tactical forces in the 1980's and due to the evolving strategic basing requirements such as decisions on the beddown of the air launched cruise missile, a follow-on penetrating bomber, and a new air defense interceptor. While a full discussion of the strategic considerations of Loring Air Force Base would get into classified information, the need for Loring can be justified by its significant contribution as a strategic asset. The conferees further agree that construction and O&M funds to upgrade and maintain this base should be planned and programmed for FY 1980 and future years in order that the base retain a high level of strategic and tactical capability.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. I yield to the Senator from Maine such time as he may require.

Mr. MUSKIE. Mr. President, given our concern with the budgetary implications of all appropriations bills at this point in the session, I would like to make this brief statement with respect to the pending bill.

The bill provides $3.9 billion in budget authority and $1.1 billion in fiscal year 1980 outlays. These amounts are consistent with the President's budget request and the functional totals of the second budget resolution.

While I remain concerned about the Appropriations Committee's ability to live within its total allocation, this bill fits within the committee's military construction subcommittee's estimated allocation and the spending in the bill clearly was contemplated in the second budget resolution.

Mr. President, since this bill is consistent with the budget resolution, I support the bill as reported.

I ask unanimous consent that a table showing the budgetary status of this function be printed in the RECORD following my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Function 050

[Dollars in billions]

	BA	O
Action completed [1]	2.7	41.4
Defense appropriation bill as passed	131.6	84.5
Military construction appropriation bill as reported	3.9	1.1
Possible later requirements [2]	2.4	2.1
Total	140.6	129.1
Second budget resolution	141.2	129.9

[1] Includes appropriation action to date and outlays from prior-year authority.

[2] Includes strategic stockpile legislation, pay supplemental and other miscellaneous items.

Mr. HUDDLESTON. Mr. President, the Senator from Colorado (Mr. HART), the chairman of the Armed Services Subcommittee on Military Construction and Stockpiles, and I have discussed the possible methods of dealing with the troublesome problem of currency fluctuations.

The House recommended a special fund. Senator HART and I agree that the normal authorization/appropriations process, which allows for close congressional review of currency revaluations and funding needed to compensate for them, is the preferable way to handle the matter. Consequently, we wish to explain the issue in some detail.

Mr. HART. Mr. President, I wanted to take just a moment to compliment my colleague from Kentucky, the distinguished chairman of the Military Construction Subcommittee, for his expeditious handling of this legislation. Just last Friday the Senate approved the conference report on the military construction authorization bill for fiscal year 1980. It is important to move this legislation as rapidly as possible, not only to get started on badly needed facilities, but also to maximize the buying power of the military construction dollar which, like the entire construction industry, suffers under inflation of about 1 percent per month. The fact that military construction authorization and appropriation bills will not be enacted until 2 months into the fiscal year means that the taxpayers have lost $70–$80 million in buying power due to inflation. Again, I would thank Senator

HUDDLESTON for moving this bill so expeditiously.

There is one point that I want to raise with the manager of the bill and that has to do with the issue of how to deal with the problem of dollar devaluation on overseas projects. The House included in their bill an appropriation of $100 million as a "slush fund" to be used for overseas projects that are being squeezed by the declining value of the dollar. This same House appropriation provided that

. . . authorizations or limitations now or hereafter contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended are hereby increased to the extent necessary to reflect fluctuations in foreign currency exchange rates from those used in preparing the applicable budget submission. . . .

The Senate Appropriations Committee in its amendments has deleted this House provision. I heartily endorse the Senate committee's action.

The House language is objectionable on two points. First, it is legislation on an appropriations bill in its most blatant form—it removes any cost limitations imposed by authorizing bills as well as appropriations bills "now or hereafter" enacted. Second, and I believe more importantly, it removes what I considered to be the most important management device included in the authorizing legislation—that is the requirement for each military service to execute its construction program within the total authorization for their title. If they have a cost overrun on one project, it must be offset by savings on other projects.

The Armed Services Subcommittee on Military Construction and Stockpiles considered the request of the services—especially the Army—to increase the authorization simply based on the increase to the budget request that would have occurred as a result of the increasing dollar exchange rates. We asked the Army to tell us what projects would drop out if this request were not approved. The Army could not respond. In fact, it now appears that the Army will have more authorization than it needs as a result of unfunded authorization and projects which will not be built for a variety of reasons.

There is one thing I am sure of—if the services are given a $100 million "slush fund" and all of the constraints in law are waived, they will spend the $100 million—whether they need it or not.

Would the manager of the bill comment on the point that I have just raised?

Mr. HUDDLESTON. First, Mr. President, let me thank the Senator from Colorado for his efforts to get this fiscal year 1980 military construction effort moving. His actions have been most timely; the Senate passed the authorizing legislation in June of this year, but it was not until October that the House considered the measure. He moved rapidly to wrap up the conference and assisted my subcommittee by providing the earliest possible information so that this bill could be considered.

I want to endorse what he has said with regard to the dollar devaluation situation. The situation is analogous to the man who gets a pay raise that is less than inflation—he has to decide on priorities and if he cannot get more efficient, he must defer his lower priority desires.

Mr. HART. Do you agree that the House language is legislation on an appropriation bill?

Mr. HUDDLESTON. Without question. We should not use the appropriations bills to rewrite the authorizing legislation. Our system would break down.

Mr. HART. I thank the Senator for his indulgence. I strongly support this bill and again compliment the floor manager for his expeditious handling of this important appropriation.

Mr. HUDDLESTON. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Kentucky.

Mr. STEVENS. I believe we are ready for third reading, Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 4391) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered on this question; but since, under the previous order, there can be no rollcall vote until 2 o'clock, the vote will be delayed. The Chair recognizes the Senator from West Virginia.

HOME ENERGY ASSISTANCE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 1724, which, as stated on Friday, was intended to be the bill taken up upon the disposition of the military construction appropriations bill; that the Senate proceed on that measure until the hour of 2 o'clock; that at the hour of 2 o'clock there be 10 minutes remaining for debate on the military construction appropriations bill, the time to be equally divided between Mr. HUDDLESTON and Mr. STEVENS; and that upon the disposition of that bill the Senate resume the consideration of S. 1724.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. STEVENS. Mr. President, reserving the right to object, we want to make certain that that time is not more than 10 minutes. It is our intent that the vote take place shortly following 2 o'clock. I assume this means that we have yielded back our time on each side, so that the time for debate will be a maximum of 5 minutes on each side. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1724) to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Home Energy Assistance Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) recent dramatic increases in the cost of primary energy sources have caused corresponding sharp increases in the cost of home energy;

(2) reliable data projections show that the cost of home energy will continue to climb at excessive rates;

(3) the cost of essential home energy imposes a disproportionately larger burden on fixed-income, lower income, and lower middle income households and the rising cost of such energy is beyond the control of such households;

(4) fixed-income, lower-income and lower-middle-income households should be protected from disproportionately adverse effects on their incomes resulting from national energy policy;

(5) adequate home heating is a necessary aspect of shelter and the lack of home heating poses a threat to life, health, or safety;

(6) adequate home cooling is necessary for certain individuals to avoid a threat to life, health or safety;

(7) low-income households often lack access to energy supplies because of the structure of home energy distribution systems and prevailing credit practices; and

(8) assistance to households in meeting the burden of rising energy costs is insufficient from existing State and Federal sources.

(b) It is the purpose of this Act to make grants to States to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent;

(2) "home energy" means electricity, oil, gas, coal or any other fuel for use as the principal source of heating or cooling in residential dwellings;

(3) "lower living standard income level" means the income level (adjusted for regional, metropolitan, nonmetropolitan differences and family size) determined annually by the Secretary of Labor based upon the most recent "lower living standard family budget" issued by the Secretary of Labor.

(4) "Secretary" means the Secretary of Health, Education, and Welfare; and

(5) "State" means each of the several States and the District of Columbia.

HOME ENERGY GRANTS AUTHORIZED

SEC. 4. (a) The Secretary is authorized to make grants, in accordance with the provisions of this Act, to States on behalf of eligible households to assist such households to meet the rising costs of home energy.

(b) There are authorized to be appropriated $1,600,000,000 for the fiscal year 1980, $3,000,000,000 for the fiscal year 1981, and $4,000,000,000 for the fiscal year 1982, to carry out the provisions of this Act.

(c)(1) Unless the Congress in the regular session which ends prior to the beginning

of the terminal fiscal year of the authorization of appropriations for the program authorized by this Act either—

(A) has passed or has formally rejected legislation which would have the effect of extending the authorization of that program; or

(B) by action of either the House of Representatives or the Senate, approves a resolution stating that the provisions of this subsection shall no longer apply to such program;

such authorization is hereby automatically extended for one additional fiscal year. The amount appropriated for such additional year shall not exceed the amount which the Congress could, under the terms of the law for which the appropriation is made, have appropriated for such program during such terminal year.

(2)(A) For the purposes of clause (A) of paragraph (1) of this subsection, the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.

(B) In any case in which the Secretary is required under this Act to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this Act, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which that part of paragraph (1) of this subsection which follows clause (B) thereof is in operation.

(d) For the purpose of affording adequate notice of assistance available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. Funds appropriated under subsection (b) of this section shall remain available until expended.

ELIGIBLE HOUSEHOLDS

SEC. 5. (a) Eligible household means any household which the State determines is—

(1) eligible for (A) aid to families with dependent children under part A of title IV of the Social Security Act, (B) supplemental security income payments under title XVI of the Social Security Act, (C) food stamps under the Food Stamp Act of 1977, or (D) payments under section 415, 521, 541, or 542 of title 38, United States Code (relating to certain veterans' benefits); and

(2) any other household with an income equal to or less than the lower living standard income level as determined pursuant to subsection (c) of this section.

(b) Notwithstanding clause (1) of subsection (a), a household which is eligible for supplemental security income payments under title XVI of the Social Security Act shall not be considered eligible for home energy assistance under this Act if the eligibility of a household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments (under title XIX of that Act) with respect to that individual,

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of that Act applies, or

(3) a child described in section 1614(f)(2) of that Act (who is living together with a parent or the spouse of a parent).

(c) In determining income eligibility for the purpose of clause (2) of subsection (a), the State shall apply procedures and policies consistent with procedures and polices used by the State agency administering programs under part A of title IV, of the Social Security Act.

ALLOTMENTS

SEC. 6. (a) From 95 per centum of the sums appropriated pursuant to section 4(b) for the fiscal year 1981 and for each fiscal year thereafter the Secretary shall—

(1) allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the aggregate residential energy expenditure in such State bears to the aggregate residential energy expenditure for all States; and

(2) allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the total number of heating degree days in such State, multiplied by the number of households in such State having incomes equal to or less than the lower living standard income level bears to the sum of such products for all States.

(b)(1) From the remainder of the sums appropriated pursuant to section 4(b) for each fiscal year, the Secretary shall—

(A) transfer to the Director of the Community Services Administration $100,000,000 for carrying out energy crisis related activities under section 222(a)(5) of the Economic Opportunity Act of 1964, and

(B) reserve $2,500,000 to be apportioned on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which subparagraph (1)(B) applies may receive grants under this Act upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this Act, and which are consistent with the requirements of section 8(b) of this Act.

(3)(A)(i) The remainder of the sums appropriated pursuant to section 4(b) shall be distributed for home energy assistance programs in accordance with the provisions of this subparagraph. The Secretary shall make incentive grants to States to pay a Federal share of incentive fuel assistance programs for residential energy costs established by any State to serve the same population as the population eligible under this Act.

(ii) No grant may be made under this subparagraph of this paragraph unless the State makes an application to the Secretary containing such provisions which the Secretary deems necessary and which describes the State program for which assistance is sought under this subparagraph.

(iii) The Federal share for any fiscal year for Federal assistance under this subparagraph shall not exceed 25 per centum.

(B) The remainder of the sums appropriated pursuant to section 4(b) not required to carry out the provisions of subparagraph (A) of this paragraph shall be distributed by the Secretary in accordance with the allocation formula contained in subsection (a) of this section.

(c) The portion of any State's allotment under subsection (a) for a fiscal year, which the Secretary determines will not be required for the period such allotment is available for carrying out the purposes of this Act, shall be available for reallotment from time to time, on such dates during such period as the Secretary may fix, to other States based on need and ability to expend the funds consistent with the provisions of this Act and taking into account the proportion of the original allotments made available to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this Act, and the total reduction shall be similarly realloted among the States whose proportionate amounts are not so reduced. In carrying out the requirements of this subsection the Secretary shall take into account the climatic conditions and such other relevant factors as may be necessary to assure that no State loses funds necessary to carry out the purposes of this Act. Any amount realloted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(d)(1) Any allocations to a State may be reallocated only if the Secretary has provided thirty days advance notice to the chief executive and to the general public. During such period comments may be submitted to the Secretary.

(2) After considering any comments submitted during such period, the Secretary shall notify the chief executive of any decision to reallocate funds, and shall publish such decision in the Federal Register.

(e) The aggregate residential energy expenditure for each State and for all States shall be determined by the Secretary after consulting with the Secretary of Energy.

(f) The allotments made under this section shall be made on the basis of the latest reliable data available to the Secretary.

(g)(1) In any State in which the Secretary determines (after having taken into account the amount of funds available to the State) that the members of an Indian tribe are not receiving benefits under this Act that are equivalent to benefits provided to other households in the State, and if the Secretary further determines that the members of such tribe would be better served by means of grants made directly to provide such benefits, the Secretary shall reserve from sums that would otherwise be allotted to such State not less than 100 per centum of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State.

(2) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or where there is no tribal organization, to such other entity as the Secretary determines has the capacity to provide assistance pursuant to this Act.

(3) In order for a tribal organization or other entity to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

USES OF HOME ENERGY GRANTS

SEC. 7. Grants for fiscal year 1981 and thereafter under this Act may be used for home energy assistance in accordance with plans approved under section 8.

STATE PLANS

SEC. 8. (a) Each State desiring to receive a home energy grant under this Act shall submit a State plan to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary.

(b) Each such State plan shall—

(1) be submitted in accordance with the procedures, timetables and standards established by the Secretary pursuant to subsection (d)(3) of this section;

(2) designate an agency of the State to be determined by the chief executive to administer the program authorized by this Act and describe local administrative arrangements;

(3) provide for a State program for furnishing home energy assistance to eligible households through payments made in accordance with the provisions of the plan, to—

(A)(i) home energy suppliers,

(ii) eligible households whenever the chief executive determines such payments to be feasible, or when the eligible household is making undesignated payments for rising energy costs in the form of rent increases, or

(iii) any combination of home energy supplier and eligible household whenever the

chief executive determines such payments to be feasible, and

(B) building operators, in housing projects established under sections 221(d)(3) and 236 of the National Housing Act of 1968, section 202 of the Housing Act of 1959, section 515 of the Housing Act of 1949, low rent housing established by the United States Housing Act of 1937, and section 8 of the Housing Act of 1974, and State and local government-operated projects in an aggregate monthly amount computed on the basis of the number of eligible tenants making undesignated energy payments in the form of rent divided by the exact costs of primary residential fuel costs paid as an undesignated part of rent up to a ceiling amount per eligible tenant as determined under regulations by the Secretary annually to be comparable to the amount established for other eligible households;

(4) describe with particularity the procedures by which eligible households in the State are identified and certified as participants;

(5) describe energy usage and the average cost of home energy in the State identified by the type of fuel and by region of the State;

(6) describe the amount of assistance to be provided to or on behalf of participating households assuring that priority is given to households with lowest incomes and that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income, taking into account—

(A) the average home energy expenditure by type of energy,

(B) the proportional burden of energy costs in relation to income,

(C) the variation in degree days in regions of the State in any State where appropriate, and

(D) any other relevant consideration selected by the chief executive including provisions for payment levels for households making undesignated payments in the form of rent;

(7) provide, in accordance with clause (3)(A), for agreements with home energy suppliers under which—

(A) the State will pay on a timely basis by way of regular installments, as reimbursements or a line of credit, to the supplier designated by each participating household the amount of assistance determined in accordance with clause (6);

(B) the home energy supplier will charge the household specified in subclause (A), in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this Act;

(C) the home energy supplier will provide assurances that the home energy supplier will not discriminate against any eligible household in regard to terms and conditions of sale, credit, delivery and price; and

(D) the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this clause will contain provisions to assure that no household receiving assistance under this Act will have home energy terminated unless—

(i) the household has failed to pay the amount charged to such household in accordance with subclause (B) for at least two months,

(ii) the household receives a written termination notice not less than thirty days prior to the termination, and

(iii) the household is afforded, in a timely fashion before termination, an opportunity for a hearing by an agency designated by the State;

unless the supplier is located in a State in which the termination policy contains provisions for a longer grace period, or notification period, than that described in this clause;

(8) provide for the direct payment to households to which subclauses (A) (ii) and (iii) of clause (3) applies;

(9) provide for public participation in the development of the plan;

(10) provide assurances that the State will treat owners and renters equitably under the program assisted under this Act;

(11) provides that (A) of the funds the State receives for each fiscal year, the State may use for administration of the plan an amount not to exceed 15 per centum of the cost of carrying out the plan, and for the purpose of this clause the Federal share of the cost of administration for any fiscal year shall be 50 per centum and (B) the State will pay from non-Federal sources the remaining costs of administration with respect to carrying out the plan required by the preceding clause and will not use Federal funds to carry out the provisions of this subclause;

(12) describe the administrative procedures to be used in carrying out the plan;

(13) provide an opportunity for a fair hearing before the State agency designated under clause (2) to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness;

(14) provide that, of the funds the State receives for each fiscal year, the State may reserve 3 per centum of the funds to be available for weather related and supply shortage emergencies, and if the State reserves such funds, the plan shall identify—

(A) the procedurers for planning for such emergencies,

(B) the administrative procedures designating the emergency and implementing an emergency plan,

(C) the procedures for determining the assistance to be provided in such emergencies, and

(D) the procedures for the use of the funds under this clause for the purposes of this Act in the event that there are no emergencies;

(15) provide assurance that there will be, to the maximum extent possible, referral of individuals to, and coordination with, existing Federal, State, and local weatherization and energy conservation efforts;

(16) provide for outreach activities designed to assure that all eligible households, particularly households with elderly or handicapped individuals, households with individuals who are unable to leave their residences, households with migrants, households with individuals with limited English proficiency, households with working poor individuals, households with children, and households in remote areas, are aware of the assistance available under this Act by using community action agencies, area agencies on aging, State welfare agencies, volunteer programs carried out under the Domestic Volunteer Service Act of 1973, and other appropriate agencies and organizations within the State including home energy suppliers together with provisions for the reimbursement of such agencies, from administrative funds, for outreach and certification activities;

(17) establish procedures for monitoring the assistance provided under the plan including monitoring and auditing any agreements entered into under clause (7) of this subsection and describe the documentation to be required of energy suppliers concerning energy supplied to eligible households;

(18) provide assurances that the State will maintain regular benefit levels in existing federally assisted cash assistance programs, except that in a State which increases such programs solely for the purpose of energy assistance, such increase shall not be considered a part of the regular program;

(19) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper dispersal of and accounting for Federal funds paid to the State under this Act;

(20) provide that reports will be furnished in such form and contain such information as the Secretary may reasonably require, particularly for the carrying out of provisions of section 9; and

(21) provide assurances that the State will not establish any more restrictive standards of eligibility or any more restrictive application and certification procedures than those established by the Secretary.

(c) The State is authorized to make grants to eligible households to meet the rising costs of cooling whenever the household establishes that such cooling is the result of medical need pursuant to standards established by the Secretary.

(d)(1) The Secretary shall approve any State plan, or modification thereof, that meets the requirements of subsections (b) and (c) and shall not finally disapprove, in whole or in part, any plan, or any notification thereof, for assistance under this Act without first affording the State reasonable notice and opportunity for a hearing within the State. Whenever the Secretary disapproves a plan the Secretary shall, on a timely basis, assist the State to overcome the deficiencies in the plan.

(2) The Secretary shall carry out the functions of the Secretary under this section promptly.

(3) The Secretary, as soon as possible after the date of enactment of this Act, shall establish criteria and standards for the State plan requirements under subsections (b) and (c) of this section, together with timetables for carrying out the plan.

(e) Any State which makes advances available for activities under this Act in substantial compliance with an approved State plan may be reimbursed for such advances from the allocation made to that State under section 6(a) when funds are appropriated to carry out the provisions of this Act.

UNIFORM DATA COLLECTION

SEC. 9. (a) The Secretary, after consultation with the Secretary of Energy, shall establish uniform standards for data collection which shall be used by States in all reports required under this Act.

(b)(1) The standards established by the Secretary under this section shall apply to (A) information concerning home energy consumption, (B) the cost and type of fuels used, (C) the type of fuel used by various income groups, (D) the number and income levels of households assisted by this Act, and (E) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this Act.

(2) In carrying out this section, the Secretary shall gather and analyze information on the price structure of various types of fuel, particularly the increases in such price structure, if any, attributable to the financial assistance provided under this Act.

(c) The Secretary shall report annually to Congress concerning data collected under subsection (b).

PAYMENTS

SEC. 10. (a) From the amount allotted to each State pursuant to section 6, the Secretary shall pay to the State which has an application approved under section 8 an amount equal to the amount needed for the purposes set forth in the State plan.

(b) Payments under this Act may be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

WITHHOLDING

SEC. 11. Whenever the Secretary, after reasonable notice and opportunity for hearing within the State to any State, finds that there has been a failure to comply with any provision set forth in the State plan of that State approved under section 8, the Secretary shall notify the State that further payments will not be made under this Act until the

Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under this Act.

CRIMINAL PENALTIES

SEC. 12. Whoever violates provisions of this Act or who knowingly provides false information in any report required under this Act shall be fined not more than $10,000 or imprisoned not more than five years or both.

ADMINISTRATION

SEC. 13. (a)(1) The Secretary may delegate any functions under this Act, except the making of regulations, to any officer or employee of the Department of Health, Education, and Welfare.

(2) The Secretary shall issue regulations under this Act, within sixty days after the date of enactment of this Act.

(b) In administering the provisions of this Act, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution, to the extent such services and facilities are otherwise authorized to be made available for such purpose, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(c) Notwithstanding any other provision of law, the amount of any fuel assistance payments provided to an eligible household under this Act shall not be considered income or resources for any purpose under any Federal or State law, including any law relating to taxation, public assistance or welfare program.

(d) The Secretary shall establish procedures for Federal monitoring of State administration of programs assisted under this Act.

(e) The Secretary shall coordinate the administration of the program established under this Act with appropriate programs authorized by the Economic Opportunity Act of 1964 and any other existing Federal energy programs which provide related assistance programs.

(f) The Secretary, after consultation with the Secretary of the Department of Energy, the Director of the Community Services Administration, the Secretary of Housing and Urban Development and the Secretary of Agriculture, shall establish procedures for referrals for participation in Federal weatherization programs under section 8(b)(15).

HOME ENERGY ASSISTANCE PROGRAM FOR FISCAL YEAR 1980

SEC. 14. (a) From the sums appropriated pursuant to section 4(b) for the fiscal year 1980, or from sums available for section 222(a)(5) of the Economic Opportunity Act of 1964, for fiscal year 1980, the Director of the Community Services Administration shall reserve allotments for each State in accordance with the provisions of subsection (b) of this section. The Director shall notify each State of the amount of the allotment so reserved and of the option set forth in subsection (c) of this section.

(b)(1) From the funds appropriated pursuant to section 4(b) and reserved in accordance with subsection (a) of this section, the Director shall—

(A) allot to each State an amount which bears the same ratio to one-half of such sums as the aggregate residential energy expenditure in such State bears to the aggregate of such expenditures for all States; and

(B) allot to each State an amount which bears the same ratio to one-half of such sums as the total number of heating degree days in such State, multiplied by the number of households in such State having incomes equal to or less than 125 per centum of the poverty level bears to the sum of such products for all States.

(2) For the purpose of this subsection the poverty level shall be determined in accordance with criteria established by the Director of the Office of Management and Budget.

(c)(1) Within fifteen days after the date of enactment of this Act, each State shall select the option (A) of administering the home energy program for fiscal year 1980 directly, or (B) of having a dual administration of the program described in paragraph (2) of this subsection.

(2)(A) For each State selecting to administer the home energy program under the option described in subparagraph (B) of paragraph (1) of this subsection, the Director shall reserve and transfer to the Secretary of Health, Education, and Welfare from each such State's allotment an amount necessary to make direct payments to recipients of supplemental security income under title XVI of the Social Security Act for home energy assistance in accordance with the provisions of subparagraph (B). The remainder of each such State's allotment shall be available to carry out the energy crisis assistance program in that State in accordance with regulations prescribed pursuant to section 222(a)(5) of the Economic Opportunity Act of 1964, dated October 11, 1979, except that—

(i) the provisions of such regulations with respect to the distribution of funds,

(ii) the provision with respect to maximum payments for each household, and

(iii) any other provision, inconsistent with the provisions of this section,

shall not apply.

(B) The amount reserved and transferred under subparagraph (A) of this paragraph shall be an amount not less than—

(i) an amount which bears the same ratio to the State's allotment as the number of households receiving supplemental security income under title XVI of the Social Security Act bears to all households having an income equal to or less than 125 per centum of the poverty level,

nor more than

(ii) an amount equal to 125 per centum of the amount determined under clause (i).

All households receiving payments under the provisions of this subparagraph shall receive uniform payments except that payment to a household having one individual shall be 66⅔ per centum of the payment to all other households in the State eligible to receive such payments.

(C) Notwithstanding the provisions of subparagraphs (A) and (B) of this paragraph, a household which is eligible for supplemental security income payments under title XVI of the Social Security Act shall not be considered eligible for the purpose of this paragraph if the eligibility of such household is dependent upon—

(i) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Special Security Act by reason of being in an institution receiving payments (under title XIX of that Act) with respect to that individual,

(ii) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of that Act applies, or

(iii) a child described in section 1614(f)(2) of that Act (who is living together with a parent or the spouse of a parent).

(D) For the purpose of this paragraph the poverty level shall be determined in accordance with criteria established by the Director of the Office of Management and Budget.

(d) For States selecting the option described in clause (A) of paragraph (1) of subsection (c), the Director of the Community Services Administration shall carry out energy crisis assistance programs in each such State in accordance with regulations prescribed pursuant to section 222(a)(5) of the Economic Opportunity Act of 1964 dated October 11, 1979, except that—

(1) the provisions of such regulations with respect to the distribution of funds,

(2) the provision with respect to maximum payments for each household, and

(3) any other provision inconsistent with the provisions of this section,

shall not apply.

(e)(1) In carrying out the program described in subsection (c) or subsection (d) of this section the Director of the Community Services Administration shall assure that each State may select any agency of the State to be the agency to administer the energy crisis assistance program.

(2) In any energy crisis assistance program carried out pursuant to subsection (c) or subsection (d) of this section each State may employ any public or private agency or organization for outreach activities and shall encourage the use of voluntary private agencies for such outreach activities.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BIDEN). Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, today, the Senate is considering S. 1724, the Home Energy Assistance Act. This bill will provide assistance to low-income households to offset the rising costs of home energy.

Energy in the United States traditionally has been in abundant supply and the cost of energy for residential use was within the means of most households. However, the era of cheap energy is clearly over. As we enter the 1980's, the Nation's energy situation is vastly changed from what it was 10 years ago. On January 1, 1970, the benchmark price for light crude was $1.70 per barrel. Today, that price ranges from $18 to $24 per barrel and as high as $40 on the spot market.

This dramatic price increase has been translated into steady, upward surges in the price of home heating oil, natural gas, and electricity, the main sources of energy for heating American homes during the winter.

Last year, low-income American households paid between 20 and 25 percent of their incomes on utility costs alone. In fiscal year 1980, the average low-income household may pay as much as 50 percent of its income for energy, leaving these families with little money to pay for food, shelter, clothing, and medicine.

The terms "heat or eat" and "food or fuel" have been used so often to describe this crisis that they have lost their impact. But the reality is that millions of Americans may face the grim choice of freezing or starving to death this winter.

To prevent this national tragedy, the Labor and Human Resources Committee has devised a program of home fuel assistance to help low- and fixed-income households pay their energy bills.

In drafting the Home Energy Assistance Act, our committee sought the

guidance of citizens from all around the country—Senators with years of experience in energy legislation, the Fuel Oil Marketing Advisory Committee to the Department of Energy, and the committee's own experience with the emergency energy crisis intervention program funded by the CSA.

Six bills to provide energy assistance to low-income households have been introduced in the 96th Congress: S. 1270, introduced by Senators JAVITS and JACKSON; S. 1725, introduced by Senator NELSON; S. 771, introduced by Senator WEICKER; S. 1331, introduced by Senator BIDEN; S. 1603, introduced by Senators MATHIAS and BAKER; and S. 1724, which I introduced along with a number of cosponsors.

In the past few months, the Labor and Human Resources Committee held 12 days of hearings, 4 in Washington, D.C., and 8 across the country. Witnesses, whose names will appear in the record, included representatives of local, State and Federal Government, the elderly, the poor, consumers, and energy suppliers.

All witnesses made a compelling case of the need for our legislation.

As passed by the Labor and Human Resources Committee, S. 1724, the Home Energy Assistance Act, authorizes the Secretary of Health, Education, and Welfare to make grants to the States to distribute funds to eligible low- and lower middle-income households to help pay for home energy costs. The bill authorizes $3.0 billion for fiscal year 1981, and $4.0 billion for fiscal year 1982.

Households eligible for home fuel assistance are those whose incomes fall below the Labor Department Bureau of Labor Statistics (BLS) lower living standard level and families eligible for AFDC, food stamps, SSI, and veterans' pensions.

Approximately 18 million households will be eligible for assistance under S. 1724, which is focused on the low- and lower middle-income households which are least able to absorb the skyrocketing costs of home energy.

The Secretary of HEW will distribute 95 percent of the funds to the States based upon a formula which takes into account, first, residential energy expenses for the States, second, the number of heating degree days, and third, the size of the eligible population.

The remaining 5 percent authorized under S. 1724 will be set aside for energy crisis activities of the CSA and for incentive grants to States which provide State funds for energy assistance.

To receive Federal funds, States must submit a plan describing the arrangements for administering the energy assistance program, provisions for certifying eligible households, information on home energy usage, outreach activities, and weatherization programs. Each State must certify that no more than 7½ percent of the funds will be used for administration of the program and that the States will provide matching funds.

Payments may be made either directly to the energy suppliers or to the eligible households, with States contracting agreements with home energy suppliers on methods of payment, lines of credit, and reimbursements.

Each State will also make plans for outreach activities to contact those Americans who are often underserved by Federal programs and who are in the greatest need of home fuel assistance—the elderly, handicapped, immigrants, the working poor, and those living in rural areas.

Mr. President, the Home Energy Assistance Act has been developed with the aid of many. It would be impossible to thank all who have given of their time and efforts. I would like particularly to thank the members of the Labor and Human Resources Committee.

This whole measure was considered as a full committee matter and all Senators on that committee participated in the hearing process here, in the markup here, of course, and also as Members availed themselves of their opportunities of learning the need first hand for assistance of this nature with the cruel demands that are placed on lower-income people because, as I mentioned, of the skyrocketing costs of energy.

Mr. President, the contributions of all the Members are deeply appreciated. I particularly want to mention the efforts on behalf of this legislation of Senator KENNEDY, Senator PELL, and Senator METZENBAUM, who, as usual, have made superior contributions. Senator JAVITS introduced his own legislation providing fuel assistance and his contributions to the development of the program, as well as his leadership in securing funding for fiscal year 1980, are most appreciated. Senator HATCH ably represented the committee during Budget Committee consideration of the waiver resolution, for which I express my gratitude. I commend my friend and colleague, the ranking minority member of the committee, (Mr. SCHWEIKER), for his time and efforts to bring about a program of fuel assistance.

To give members of the Committee on Labor and Human Resources the opportunity to learn firsthand from people that they most particularly and directly represent in their own States, we have had members go to eight locations throughout the country for hearings at home, to learn at first hand the heavy impact that skyrocketing prices is having on lower income households.

A hearing was held October 13 in Concord, N.H.; October 15 in Jersey City, N.J.; then also in October in Providence, R.I.; Salt Lake City, Utah; Philadelphia, Pa.; Madison, Wis.; Kansas City, Mo.; and Lansing, Mich.

There was one aspect of all this that required a detailed explanation of what the need was and why we had recommended authorization of billions of dollars for the winter years.

First, we had to deal with 1980, then 1981 and 1982. Of course, this had an impact on Budget Committee deliberations.

The Senator from Utah (Mr. HATCH), a member of the Labor and Human Resources Committee, a member of the Budget Committee, did represent our committee before the Budget Committee on the waiver resolution for the fiscal year 1980 program. From our committee, we express great gratitude for the excellence of his work there.

I particularly commend the ranking minority member of the committee, the Senator from Pennsylvania (Mr. SCHWEIKER), for his time and effort to bring about a program of fuel assistance.

Mr. President, the Labor and Human Resources Committee reported out S. 1724 as an amendment in the nature of a substitute. I ask unanimous consent that the committee substitute be agreed to as original text for the purpose of amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I know the ranking member of our committee (Mr. SCHWEIKER) will not only want to handle part of the management of this bill, I am certain he also has an amendment that will be offered by him. It was offered in the committee and it will be offered here.

Mr. President, I ask unanimous consent that during the considerations of this bill, the following minority staff representatives be granted privilege of the floor: Polly Gault of Senator SCHWEIKER's staff, Mike Francis of Senator STAFFORD's staff, Bob Hunter of Senator HATCH's staff, Ron Preston of Senator HUMPHREY's staff, Dave Swoap of Senator ARMSTRONG's staff, Meg Powers of Senator JAVITS' staff, and Tony Arrojos of Senator DOMENICI's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I am pleased that the Senate is considering today S. 1724, the Home Energy Assistance Act. As the ranking Republican on the Labor and Human Resources Committee, I commend our committee members and particularly our chairman, for working expeditiously to develop legislation which will take the edge off of the great fear low-income elderly and families are facing this winter—that they might not be able to afford fuel for heating throughout the winter. The term "heating or eating" has been used to describe this dilemma, and I want to assure my colleagues that this crisis is a real one in my State of Pennsylvania. Fuel oil prices have risen 100 percent in 1 year, with gas prices following at least a 30-percent rate of increase.

I strongly believe that the States, not HEW, should be in charge of distributing assistance under this program. In S. 1724 we have given the Governors the flexibility they have never had under the old emergency fuel assistance program. We have also eliminated, once and for all,

the eligibility criteria which discriminated against the elderly in the past.

I have had a long-term interest in the CSA run emergency fuel assistance program, in my work on the Labor and Human Resources Committee and the Labor-HEW Appropriations Subcommittee. I tried for years to get CSA to improve the ridiculous regulations which they used for eligibility, the worst of which was the criteria that you had to have an unpaid fuel bill to qualify.

In spite of the fact that the Senate passed and the House accepted an amendment of mine to stop use of this unpaid fuel bill standard, CSA continued to use this standard. Many poor senior citizens never received any benefit under this program simply because they paid their fuel bills on time. I am pleased to be able to report that the program for this winter will not have delinquency of payment of fuel bills as a standard of eligibility. The many people who refused to compromise their ethical views that bills should be paid on time, will not be excluded this year.

Along with other members of the Labor and Human Resources Committee, I participated in 3 days of hearings in Washington on fuel assistance for the poor, and I also held a hearing in Philadelphia. Three elderly witnesses testified before my hearing in Philadelphia and told a story of rigorous budgeting and self denial, and of physical discomfort and illness because of the low temperature at which they keep their homes. I am sorry that all my colleagues could not hear their eloquent testimony—these are people who have never taken anything from the Government, and now they need help with heating bills they can no longer pay on fixed incomes of $2,000 to $3,000 a year. I believe the Congress should move quickly to assure them we will help them this winter and next winter with the heating bills that now eat up 40 percent of their income.

I do have one major reservation about the present form of S. 1724. There is included in the bill, assistance for cooling whenever medically necessary.

Mr. President, I strongly feel that S. 1724 should be a home heating assistance bill, not an air-conditioning assistance bill. Our first priority with a limited pot of money should be those citizens who need heat to live. At the appropriate time I will be offering an amendment to S. 1724 to eliminate cooling assistance. I am hopeful that my colleagues in the Senate will agree with me that S. 1724 should be a heating assistance bill for the elderly poor and low-income families.

Mr. President, again I commend the chairman of our committee for his work and leadership in this area.

I also commend Senator JAVITS, who used to be the ranking minority member of this committee and who has done very much work in the appropriations process of getting a program in place for this year. He has done commendable work in getting appropriations cleared so that we can deliver money to the people for heating assistance this winter.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, the Senate now moves to consideration of a permanent program of fuel assistance for low-income families and individuals, and this is really a highly gratifying moment for me and for the members of the committee.

First, I join Senator SCHWEIKER in thanking Senator WILLIAMS for causing immediate hearings to be held; for getting our committee to work on this question of permanent legislation; and for moving immediately behind our effort, which was completed successfully here only last Friday, to get an emergency appropriation which will get money into the hands of those who need it for excess fuel costs this winter. Now we move into the urgently necessary phase of permanent legislation so that we will not be cut short again in the winter of 1980.

The assistance of Senator SCHWEIKER in this matter has been very great, and we should not fail to note that very closely and carefully. Though he disagrees with the majority of the committee on the matter of cooling, compared to his tremendous assistance in bringing this bill to the floor and in developing the legislation, that is a relatively minor consideration. So I express my gratitude to him.

The real problem is strictly one of how to do it technically. There is no question about the fact that the poor use far less energy than the average American. The poor use 50-percent less electricity and 24-percent less gas than those of higher income; and since the price has gone up, their usage has dropped even further. But they are caught in the squeeze of practically a doubling of home heating oil prices, with now the added uncertainty of and the further diminishing of supplies in respect of what came out of Iran and its effect upon the total supply picture, with perhaps even further increases in price.

So we really have a great deal to worry about, especially as the poor have paid roughly two and three times the percentage of their income, as compared with the more well-to-do families. It is estimated that last year, the poor paid an average of 8 percent of their incomes, while the better off families paid 3 percent.

So if OPEC oil prices rise only a very small percentage in real dollars, even without inflation this year, the lower income families are likely to be at a point where, without some Federal aid, they may have to pay as much as a quarter of their income for heat and light, as contrasted with those in higher brackets who may pay up to 10 percent.

So the differential, Mr. President, is enormous; hence, the urgent need for looking after the problem.

In addition, we have an even graver problem in the colder regions of the Northeast and the Midwestern part of our country, with enormously increased costs on those who can afford it the least.

We in the Committee on Labor and Human Resources believe that the scheme of this bill is an effective one; that we have produced a sound and equitable program; that we have offered a simple but a stable system of income support based upon the impact of fuel costs on a family budget; that we have given the States the latitude to design programs to suit their economic and administrative changes, to exercise prudent management, and to give due process in the course of administering the law.

We have provided that the delivery of income assistance is directly related to the weatherization of the recipients' homes, so that the Federal dollar which recurs—that is, for fuel assistance—is expended in the most fuel efficient ways.

In addition, we have given flexibility to the States, so that they may undertake a system of vendor payments or direct payments and have considerable latitude in the choice of channels through which this assistance shall move to the individual and the family.

Naturally, the committee bill represents a compromise among the concerns of many Senators. For example, I believe that a bill which had more national criteria for the payment and benefit system, which leaned more heavily to mandating a vendor payment system—that is, where the Government money went directly to the vendor—which concentrated perhaps on a lesser number of families, would be a better system. But I, as has everyone else, have had to compromise in order to get a consensus of the many Members from different parts of our country, so that we have enough support in order to pass this measure now and so that we shall not be caught short in the winter of 1980 as we were, and still are, in the winter of 1979–80.

We will be lucky if we get these checks into the hands of people by January—and that only because of the herculean efforts by Senator BYRD, who was the chairman of the subcommittee of the Senate Appropriations Committee. With my own amendment, I literally intruded, simply because there was no other way. Then, of course, there was the great cooperation in the House by the Speaker and Representative YATES of Illinois, who were tremendously effective in helping us with this particular problem, as well as Representative NATCHER, who was the chairman of this subcommittee, together with the cooperation of the Senator from Kentucky (Mr. HUDDLESTON), who managed the bill on the floor.

So I express my great gratitude to all these people who made possible our interim action, which, even now, is late, but not too late; and it is hoped that now, under the leadership of Senator WILLIAMS, we may move on and consummate what is necessary in this situation.

Finally, Mr. President, we are firmly establishing the Nation's commitment to addressing the impact that the actions of the OPEC cartel have on the poor and the elderly as that is contributed to—and we are being realistic about it—by the decontrol of domestic crude oil. No longer will these families, winter after winter, be at the mercy of some interim approach such as we have taken in past years.

The quantum leap we have made from using this as an antipoverty program, enlisting about $200 million in the preceding winter to this one, and now what

we have available, which we estimate will be roughly $1.6 billion in this one, is not only a quantum leap but also a tribute to the morality and sense of responsibility of the Congress of the United States.

Again, I pay my tribute and express my thanks, because there are thousands upon thousands of such individuals and families in the State of New York—relatively speaking, many more than anywhere else, because California's climate is very different from that of New York—to Senator WILLIAMS, Senator SCHWEIKER, and my associates on the Committee on Labor and Human Resources, who have brought us to this opportunity today.

Mr. DOLE. Mr. President, low-income energy assistance is one of the most important issues the Senate will address this year. Undoubtedly, crude oil decontrol will increase somewhat the energy costs of all Americans. Fuel oil prices have increased over 40 percent and they are continuing to escalate. Other forms of energy are also more expensive.

The burden of higher prices, however, will fall most heavily on lower income individuals. The average energy costs of low-income households are now approaching 25 percent of annual income and total energy costs may claim half of a poor person's income. Furthermore, low-income families pay proportionately more for energy because their housing is generally older, in poorer repair and less well-insulated than that of higher income households. Thus, the provisions in this bill aimed at alleviating the higher energy costs of lower income individuals are absolutely essential.

While there are a number of existing programs to provide income maintenance assistance to low-income households, they have not kept up with rising prices due to energy costs. To adequately meet extraordinary increases in energy costs, we need to supplement the ordinary mechanisms for adjusting income-assistance programs to the rising cost of living.

The Senate Finance Committee spent a number of hours discussing this issue during markup sessions on the windfall profits tax legislation. I was pleased to offer a Republican proposal to start the ball rolling. I would like to thank Senators ROTH, DANFORTH, CHAFEE, and HEINZ particularly for their interest and contribution in this effort. Actually, there are a number of elements in my original proposal and in the Finance Committee's ultimate plan which are very similar to the provisions in this bill.

The Finance Committee provided for direct cash payments for AFDC, SSI and food stamp recipients with an option for the States to take all or part of the funds allotted for such payments as a block grant. Our main concern in making direct cash payments available was that some States would not be in a position to move forward with their own plan this year. That should no longer be a consideration in light of efforts to expedite energy assistance for this winter under the existing authority in the Economic Opportunity Act.

The allocation of the funds to the States under this bill in the form of a block grant is in keeping with the Finance Committee's approach. However, it would be preferable to eliminate the restrictive language concerning State plans in this measure. I anticipate the States will demonstrate they are far more capable of effectively delivering such assistance than is the Federal Government, and we should give them the opportunity to do the best possible job.

While the State-by-State allocation of money under this program is slightly different from that under the Finance Committee alternative, the underlying philosophy is the same. Both approaches weigh the allocation on the basis of climate and actual average energy expenditures in the States. Under such a formula, additional money is targeted to areas where energy bills are higher and more particularly assures greater aid to those with the highest heating bills.

By directly addressing the needs of the poor in this manner, we have more flexibility to pursue the necessary programs, such as decontrol, that are aimed at increasing America's total energy supply. That is why the Finance Committee established the Low-Income Energy Assistance Trust Fund to receive one-half the net receipts of the windfall profit tax established by the Crude Oil Windfall Profit Tax Act.

The proposal before us, like the program approved by the Senate Finance Committee, may not be the perfect plan, but it has been developed through long deliberation and compromise, and will no doubt be amended to accommodate further compromise today. It will provide a good short range solution to the energy problems facing low-income individuals while Congress develops a better plan.

AMENDMENT NO. 566

(Purpose: To remove cooling assistance from S. 1724)

Mr. SCHWEIKER. Mr. President, I call up my amendment No. 566 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes amendment No. 566.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, lines 4 and 5, strike section 2(a)(6), and redesignate subsection (7) as (6) and subsection (8) as (7).

On page 19, line 3, amend section 3(2) by striking "or cooling" after the word "heating".

On page 35, lines 13 through 16, strike section 8(c) and redesignate subsection (d) as (c) and (e) as (d).

Mr. SCHWEIKER. Mr. President, my amendment is very simple and straightforward. It would eliminate cooling assistance from S. 1724. I firmly believe that S. 1724 should be a home heating assistance bill for the poor and not an air-conditioning or general utilities assistance bill.

I believe that we are facing a real cold weather crisis this winter. I am worried that poor people in my State of Pennsylvania will freeze to death unless we give them some help this winter and next winter.

Many Senators have claimed that although S. 1724 is generous, it does not go far enough in providing assistance for many of the poor. I believe that this air-conditioning assistance will only further reduce the money needed to help those facing a heating crisis in winter.

The American people do not want and cannot afford an air-conditioning assistance program at this time. It is unclear how such a provision would be administered. Any doctor could, and you know they would, provide a medically necessary excuse for his or her patients who feel uncomfortable in the hot weather, and I think we all do and particularly the elderly do. I do not deny that some people, particularly the elderly, are very uncomfortable in hot weather. However, we are trying to meet a life-or-death situation because of the cold weather, and that should be our first priority. We should not embark upon a new program for air-conditioning without detailed evaluation of the need and the cost of the program. There is no urgency connected with the need for air-conditioning unless it is argued Congress should assist in all utility bills. I do not think we are prepared to do so, or ought to do so, at this time when the American taxpayer is being squeezed by runaway inflation and taxes which are too high.

I think the home heating fuel emphasis makes sense and logic and is the priority of this bill.

Mr. President, my amendment would assure that those individuals who need the heating help the most are the ones who get it. It would specify that home energy as defined in S. 1724 means "electricity, oil, gas, coal, or any other fuel for use as the principal source of heating in residential dwellings." The assistance given by S. 1724 would be specifically designated for heating, not the air-conditioning, and not to help run television sets. I point out that I represent a State with lots of air-conditioners and TV sets.

So my State would be penalized by not including air-conditioning, also. However, I also represent a State full of people who are tired of wasteful government programs. To use their hard earned tax dollars to pay for someone else's air-conditioning is indefensible and makes a mockery of the serious effort they have made to cut down on unneeded energy expenses.

Mr. President, I urge by colleagues to support my amendment. I believe that the American people will be watching this vote today to see if Congress is serious about taking the time to construct Government programs which reflect the intentions of the American taxpayer. Our people are generous and do not begrudge helping the poor by giving them assistance with their heating bills. We strongly support it. That is what this bill is all about. However, they will be rightfully outraged by an assistance program which provides air-conditioning aid. There is no need for this program at this time and we should remove it from S. 1724.

Mr. WILLIAMS. Mr. President, I am

never comfortable when speaking in opposition to any idea that is advanced by my good friend, the ranking member of our committee and colleague, whom we all respect completely, but in this situation I did have to oppose the amendment as it was offered by the Senator from Pennsylvania in committee and must oppose it here also.

This amendment would strike out cooling provisions from the bill and thereby prohibit any assistance under this act for cooling purposes.

While the basic thrust of the Home Energy Assistance Act is to offset the rising cost of home heating, this bill also provides assistance to eligible households for cooling, when it is determined to be medically necessary.

We are all aware that adequate home heating is a necessary aspect of shelter and the lack of home heating poses a threat to life and safety. While young and old alike are susceptible to hypothermia, when temperatures go below a reasonable degree, it must be understood, also, that there is a limited category of people, which includes the aged and others with particular medical conditions, who are also susceptible to excessive heat.

Both the Labor and Human Resources Committee and the Special Committee on Aging have heard dramatic testimony attesting to the critical effect that extremes of climates have on senior citizens.

In addition to the elderly, those who have certain medical conditions, such as chronic cardiac disease or severe respiratory ailments, may also be prone to heat stroke or hypertension following exposure to high temperatures. As many of my colleagues will recall, last year over 20 persons died in Texas of heat prostration. All were elderly and poor and lacked air-conditioning or sufficient cooling.

Even the Fuel Oil Marketing Advisory Committee (FOMAC) report cited the particular stresses that heat and humidity impose upon some elderly and those with severe medical problems. In addition, the Director of the National Institute on Aging, Dr. Robert N. Butler, cited the need to maintain the older person's environment at a safe level for his or her minimum physical needs.

S. 1724 as reported by the committee represents a modest and limited approach to this cooling problem. The cooling provisions in the present form would be restricted to medical necessity. In my view, it is a necessary provision, if we are to be responsive to the problems cited and appropriately serve the needs of this particular category of citizens who would be placed in threatening situations.

In response to hearing testimony we have included the provision in the bill, and it seems to me that the language of the bill protects against any abuses. It does provide that the State is authorized to make grants to eligible households to meet the rising costs of cooling whenever the household establishes that such cooling is the result of medical need. Such a determination shall be made by the State pursuant to standards established by the Secretary.

I sympathize with the suggestion made by the Senator from Pennsylvania that a medical person might, within an abundance of generosity, be rather easy with a certification of medical necessity, but I suggest that if that becomes a problem the Secretary, with a simple standard, through regulation can protect against an overreach by an overgenerous medical community.

The Governor from the State of Rhode Island appeared before the committee with a statement that said this:

> There must be a cash or quasi-cash assistance component by which to partially compensate those below a certain income level for dramatic cost increases in energy which this group simply cannot absorb within their limited incomes and which will enable those otherwise unable to do so to afford the energy necessary for heating and, where excessive summer heat is a factor in threatening life and health, air conditioning, . . .

This was, as I say, a statement of Gov. J. Joseph Garrahy of Rhode Island speaking for the Committee on Human Resources of the National Governors Association.

Other Members of the Senate appeared and likewise addresed the need for this limited application of the energy assistance program for cooling purposes.

Senators CHILES and DOMENICI, of course, whose close association with the needs of older people in this country we recognize through their work as chairman and ranking member on the Committee on Aging, said:

> Elderly persons are far more susceptible to weather and related health problems such as hypothermia and heat prostration, and must have sufficient heating and cooling in order to combat such problems.

I did mention the fact that the Fuel Oil Marketing Advisory Committee supports this, too, and in testimony before us, Anthony J. Maggiore, chairman of the Subcommittee on Energy Assistance program of that advisory committee, told the committee:

> In the South, the substandard quality of the poor's housing stock also manifests itself in higher energy costs. In cheaply designed dwelling units—particularly in mobile homes which are prevalent in Southern states—air conditioning is a necessity. Temperatures in non-air conditioned low-income southern homes present severe health hazards to the occupants—many of whom are elderly, suffering from respiratory or heart ailments made worse by increase in home temperature. In Dallas, Texas, July 1978, over twenty people died from heat prostration. They were all elderly, poor and lacked air conditioning.

So again, the major motivation for this assistance is the cold weather and the severe problem that presents to lower-income people, but there is also a problem for a selected few households which need cooling.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. WILLIAMS. I am happy to yield.

Mr. CRANSTON. I rise to express my strong opposition to Senator SCHWEIKER's amendment to eliminate the cooling provisions from this bill.

I believe that the concerns he raises about these provisions are not supported by fact.

Senators SCHWEIKER, HATCH, and HUMPHREY have stated in additional views to the report on this legislation, that the bill's major purpose is "to provide lifesaving heating assistance" and the fact that some cooling would be additional where medically indicated, in their view, contradicts that statement. The stated purpose of the bill is delineated in section 2(b), which states:

> It is the purpose of this act to make grants to States to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income.

The committee bill nowhere limits the purpose to providing lifesaving heating assistance.

Moreover, the committee defined home energy to include any fuel used as "the principal source of heating or cooling in residential dwellings."

I appreciate fully—and in fact share—my colleague's concern that moneys provided under the Home Energy Assistance Act be used solely to provide assistance to those most in need. But I cannot agree that we are unable to selectively assist individuals who experience severe problems resulting from inability to afford needed cooling.

Cooling assistance under this legislation is available only where cooling is medically necessary—not, I stress, in cases where discomfort is a factor, but where medically necessary, as determined in accordance with standards prescribed by the Secretary of HEW.

I do not believe that this relatively narrow avenue of assistance will sacrifice or impair our winter effort. I for one am not willing to say to a poor elderly individual who has, say, a chronic heart disease that it is my intent to try to help him or her afford to stay alive in winter but to do nothing about a threat to his or her life in summer.

Individuals whose lives or well-being are at risk in hot or smoggy weather conditions are typically under a doctor's care by necessity and would be clearly identifiable. They are suffering from the types of diseases that would be severely aggravated by poor air quality or heat—such as chronic obstructive and chronic restrictive pulmonary diseases—such as asthma, emphysema, and cystic fibrosis—and congestive heart failure. Exascerbation or aggravation of these diseases can result in either frequent emergency room or doctor visits, hospitalization, or even death.

For these reasons, Mr. President, the cooling provisions should not be deleted, and for these reasons the amendment should be opposed.

Mr. WILLIAMS. Mr. President, I certainly recognize that the Senator from California brings a great amount of information to us that improves our understanding of the need for this provision. Again it would have limited application but necessary application.

Mr. CRANSTON. Exactly. I thank the Senator very much and I thank him very much for his work on it.

Mr. WILLIAMS. Mr. President, I mentioned earlier the testimony that came to our committee personally from the Senator from Florida, the chairman of

the Committee on Aging, when he was accompanied by his ranking member, and I see the Senator is on the floor and I believe he does want to address the Senate.

Mr. CHILES. Mr. President, if the Senator will yield, I appreciate the opportunity to join in the views expressed by the Senator from California and by the chairman of the committee.

I think the language that is included in the bill that provides that States can provide assistance, where they feel it is medically necessary, certainly does not put any emphasis on cooling. But in our State of Florida we have a number of our senior citizens where air-conditioning is as necessary for them as heat is for people in the North.

Because of bronchial conditions, because of asthma, because of other problems they have, including just the very severe heat itself, it is necessary for them to have air-conditioning, and we began to hear from them very, very early on as the oil prices started to increase. The State of Florida obtains all of its oil as foreign oil, so we have always had some of the highest prices.

We also use that foreign oil to create most of our electricity, and that electricity has, those electric bills have, gone up and up and up. So even prior to decontrol we have had people who pay much more for their electric bills than they pay for their rent and their mortgage payments on their houses, and it has been a very, very severe strain on those people.

What is going to happen is we are going into decontrol and trying to recognize that and trying to provide some energy assistance which certainly is as necessary for some of the people in Florida, and most of those are senior citizens and are the aged, to be able to have some relief, and I think that is what the committee in its wisdom did, and it included this provision, and I think it was wise to include it. I think it would be a real mistake on the floor if we stripped that provision from the bill.

Certainly in many parts of the country, in most parts of the country, what we are talking about is the severe condition that energy prices bring about, and in most of the country that is because of heat. But when we really talk about a severe condition, when we talk about an energy crisis in Florida and in some of the other States of the Southwest, that happens to be due to an energy price increase that comes because just as they have to use energy to heat their homes in the North, and some of our senior citizens have to use energy in order to have cooling in the South.

So what the committee in its wisdom did was to put in there where it was medically necessary that a State should have the ability to seek and use some of these funds for relief which, I think, makes great sense, and I hope very much the body will not adopt this amendment.

Mr. WILLIAMS. Mr. President, I certainly join in all of the statements made by the Senator from Florida. I advanced the same thoughts in the committee, perhaps less ably, and the committee did report this bill with the provision in it.

I know it is the desire of the Senator from Pennsylvania that we reach a vote at 2 o'clock on this amendment, and I know that runs into conflict with another agreement on another bill. It is being negotiated now to have those votes come at 2 and 2:15.

I see the Senator from Texas is here.

(Mr. BRADLEY assumed the chair.)

Mr. BENTSEN. Mr. President, if the Senator will yield, I would like to say that the problem of heat can be acute, particularly for older people. We had one heat wave in Texas, in Dallas, where more than 20 people died during that heat wave, and the medical authorities attributed it to excess heat.

In that kind of a situation, obviously, the amount of energy utilized for air-conditioning would have been very significant in trying to save lives.

My concern is that, when you take a look at these numbers, we do not skew them totally to disregard energy costs, that we just talk about cold, or that we just talk about degree days.

I know that the Energy Committee has worked very hard at this, and I am appreciative of that. But I also know that a number of amendments will be offered—one, in effect, to talk about cutting out the use of coolants even in a situation where health is involved. But the report that was developed here in Washington, talking about cold and dark, developed numbers to show that approximately 50 percent of the energy bill for a family is all that is attributed to heat; only about 50 percent. So the formula takes that into consideration as proposed by the committee. The other 50 percent is for things like heating water, trying to keep food from spoiling, and cooking food.

Then we take a look at what has happened to the cost of utilities in the South and in the North. We take a look at what has happened to heating oils and what has happened to the cost of gas over the last 10 years, and we find that the escalation in price is almost identical. The cost of heating oils in that period of time has gone up a little over 400 percent and the cost of gas has gone up just under 400 percent. So all of us have suffered.

Today you are finding that your utility bills, in the South and the North, are often larger than the mortgage payments on the home. Often an elderly couple who thought they had finally paid off the mortgage and, therefore, finally this home was theirs, are yet having a very difficult time holding onto their residence because of what has happened to the cost of energy across this Nation.

So what we must do is not single out or discriminate in favor of or against the poor of any section of our country. I am not arguing that there should not be more in adjustment because of cold, because I think there should be. But I think we ought to keep it within reasonable limits, as has been shown thus far, as to the amount of the utility bill that is attributed to heat across this Nation.

If we take that into consideration, then I believe something very close to what we see this committee has worked out in their wisdom is what should prevail. I would strongly oppose trying to skew the formula to discriminate against any one particular section of the country.

I congratulate the committee on a good job.

I had one question about the utilization of the BLS figures instead of the census figures when it comes to consideration of the poor. I probably will be offering an amendment on that later, but it will be nothing of the significance of some of these things that have been proposed that would substantially skew a formula.

I thank the distinguished manager of the bill for the time allotted to me.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHWEIKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, most Americans are now experiencing the first freezing blasts of winter. Months of cold weather and the necessity adequately to heat homes will surely follow. Low income and elderly consumers of energy throughout the country and in Utah are encountering great difficulties in paying their fuel bills. For example, from September 1978 throughout September 1979, a period of only 1 year, retail fuel oil prices have increased about 70 to 75 percent. Of more significance to Utah, perhaps, is the fact that natural gas prices have increased by 15 to 20 percent.

Such price hikes, coupled with future anticipated cost increases and an inflationary and a recessionary economy, impose an enormous burden on this Nation's 18 million low income and elderly households. While those who use fuel oil will be hardest hit, no poor family trying to keep warm this winter, regardless of the region, can escape the impact of these price increases which, for many, will pose an intolerable situation.

Because the poor already spend more of their disposable income for energy, their problems are far more severe, even life-threatening in some cases. According to the recent testimony of the Fuel Oil Marketing Advisory Committee (FOMAC) before the Senate Labor and Human Resources Committee, in 1978, low-income households, on the average,

were spending almost 19 percent of their income on home energy. Since 1978, dramatic increases in home energy costs have occurred and it is now estimated that the poor are spending close to 25 percent of their income on home energy as a national average and that over 30 percent is being spent in the Northeast and in certain places in the Midwest, because of the heavy reliance on costly fuel oil.

Mr. President, the Senate has responded quickly to the perilous situation that may exist this winter for many Americans by adoping a program within the confines of the Interior appropriations bill. This $1.35 billion program, which I was pleased to support, will facilitate assistance in time this year to help eligible recipients to meet the crunch on fuel bills which is about to come.

While this is a necessary stop-gap program, it is clear that a longer range, carefully structured program is desirable to enable people to plan for meeting the additional years of hardship which will follow in the short-run. S. 1724 represents the best plan available, in my judgment, to deal with this urgent situation although I will support some amendments today to refine certain portions of that bill which can be strengthened.

S. 1724 authorizes an energy assistance program for low- and medium-income households for 3 years at levels of $1.6 billion for fiscal year 1980, $3 billion for fiscal year 1981, and $4 billion for fiscal year 1982. It is my understanding that in light of the Interior appropriation's action in this area that the fiscal year 1980 authority contained in S. 1724 becomes unnecessary and will be dropped from the bill, leaving an authorization for 2 years, 1981 and 1982. The program is a grant program subject to appropriations, not an entitlement program. This is as it should be because the current prices are symptomatic of our failure to have a comprehensive energy policy of self-sufficiency which we will ultimately develop and which should provide relief for those hard pressed.

The bill establishes a new energy assistance program beginning in fiscal year 1981 which provides energy assistance through formula block grants to the States. I am supporting the Humphrey amendment to give the States greater flexibility to administer this program at the State level and to keep bureaucratic requirements at a minimum. Administrative costs must be minimized to the greatest feasible extent so we can get as much money into the hands of the neediest of our people to defray these energy burdens. It is my firm belief that the more flexibility given to the States in the administration of this program, the better it will operate.

The current formula allots 50 percent of the funds based on the total residential energy expenditure in each State and by the number of households with incomes below the Bureau of Labor Statistics lower living standard for each State. In this respect I believe that the Labor Committee's formula can be improved by adopting the Boschwitz amendment which would place greater weight on the heating needs of the colder weather States such as Utah in the formula allocation thereby placing a more appropriate emphasis back where I believe the Congress intends to have it—to alleviate the food versus heating fuel dilemma.

As to the funding formula, I believe it should relate to problems dealing with just heating and not cooling. I do not think it appropriate that it be used for cooling days, because the lack of air-conditioning will almost never be a life threatening situation, as the lack of heat often is. I would not be opposed to some flexibility allowed in this area at the State level, to allow Governors to make adjustments for cooling if a life threatening situation does exist. But the formula for funding should include only the number of heating days in an area and the adoption of the Schweiker amendment will insure the proper construction of the formula.

Assistance will be provided through payments to energy suppliers on behalf of eligible households or as cash assistance directly to the eligible household in certain limited circumstances. Households with incomes below the BLS lower living standard would be eligible for assistance. To ease administration, AFDC, SSI, food stamp, and certain income-tested veterans pension recipients would be categorically eligible. About 18 million households would be eligible for assistance—with some 21,000 Utah households having eligibility.

The program will be administered by HEW. Each State will be required to submit a State plan setting out the details of its proposed program.

The bill does not specify the revenue source for funding the program because the Labor and Human Resources Committee does not have jurisdiction over taxation or revenues. However, it is the committee's intent, as I understand it, that the program be funded from the windfall profits tax if the Congress enacts such a tax.

At this time, Mr. President, I would ask that information bearing upon the Utah energy situation, developed by the Utah issues information program and brought forth at an October hearing I chaired in Salt Lake City on this subject, now be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GAS AND UTILITY COSTS AND THE PURCHASING POWER OF THE LOWER INCOME

INCREASED GAS AND UTILITY COSTS IN UTAH

While attention has focussed on the sharp increase in oil costs in the East, increases in fuel and electrical costs in Utah have been equally dramatic.

From the period January 1975 to January 1979, the cost of natural gas (Mountain Fuel Supply) for the average residential customer has doubled. This increase is triple the rate of inflation and twice the average inflation rate for gas and electricity nationwide. This year the cost of gas is projected to go up by at least 35% more. In 1975 the average annual gas bill for a residential household was $151. In 1980 the average annual gas bill will be over $365. Increases in electrical rates have been almost equally dramatic.

PURCHASING POWER OF UTAH'S LOWER-INCOME

Traditionally, the incomes of households comprising Utah's poverty population (including "workingpoor" households and public assistance recipients) have increased at similar rates as the overall U.S. Consumer Price Index. However, during the past few years these poorest households have lost ground due to sharp increases in utility costs in Utah which are not reflected in nationally based inflation figures. Lower income workers and those living on fixed incomes have been similarly affected.

The following charts and tables detail the above:

[Two charts were included at this point which are not reproducible in the RECORD.]

UTILITY RATE INCREASES IN UTAH—RESIDENTIAL CUSTOMER, JAN. 1, 1975 TO JAN. 1, 1980

Date	Average monthly bill	Percent increase since 1975
I. Mountain Fuel Supply (based on 15,000 ft³/mo):		
Jan. 1, 1975	$12.80	
Jan. 1, 1976	16.22	26.8
Jan. 1, 1977	19.83	54.9
Jan. 1, 1978	22.81	78.2
Jan. 1, 1979	25.88	102.2
Jan. 1, 1980	30.35	137.1
II. Utah Power & Light (based on 400 kWh/mo):		
Jan. 1, 1975	12.34	
Jan. 1, 1976	14.22	15.2
Jan. 1, 1977	16.88	36.8
Jan. 1, 1978	19.53	58.3
Jan. 1, 1979	23.45	90.0
Jan. 1, 1980	25.00	102.6
III. Combined natural gas and electricity (I plus II):		
Jan. 1, 1975	25.14	
Jan. 1, 1976	30.44	21.1
Jan. 1, 1977	36.71	46.0
Jan. 1, 1978	42.34	68.4
Jan. 1, 1979	49.33	96.2
Jan. 1, 1980	55.35	120.2

PERCENT OF GA AND AFDC GRANT SPENT ON ESSENTIAL UTILITIES (GAS AND ELECTRIC)

	January—					
	1975	1976	1977	1978	1979	1980[1]
Household size:						
1	18.5	21.1	23.4	25.5	28.0	30.2
2	13.4	15.3	17.0	18.5	20.0	21.9
3	10.6	12.1	13.3	14.5	16.0	17.2
4	8.2	9.9	11.0	12.0	13.2	14.2

[1] Based upon average consumption of 15,000 ft³/mo—natural gas; and 400 kWh/mo electricity.

Note: The proportionate amount of an average grant (3-person family) spent for essential utilities has risen 62.3 percent since 1975.

Mr. HATCH. Mr. President, I am not known as one of the Senate's biggest spenders. However, this is a humanitarian need which must be addressed at the Federal level so that no American citizen will be forced to have to make the untenable choice of "heating or eating" for this, or any other heating season. I recommend the adoption of S. 1724.

Mr. WILLIAMS. Will the Senator yield?

Mr. HATCH. Mr. President, I am delighted to yield to my friend and colleague, the chairman of the Labor and Human Resources Committee.

Mr. WILLIAMS. Mr. President, the contribution of the Senator from Utah to the development of this I have mentioned earlier. I would like to state again the gratitude we all feel for all that he contributed. His understanding of the need translated into an action effort to meet the needs of low and lower income people in connection with the shocking

increases in the prices of fuel and energy, in the wintertime particularly.

Mr. President, we know the Senator from Utah did carry his whole appreciation for the need for this legislation to the Budget Committee and there brought to bear his understandings to make sure the budget situation in regard to this legislation was in order.

I thank the Senator from Utah for all that.

Mr. HATCH. Mr. President, I thank my dear friend and colleague, the chairman of the Labor and Human Resources Committee, who worked long and hard with his staff on these issues.

I commend the staff for working so well with our staff people through the years. I appreciate this very much.

I certainly appreciate the kind comments the Senator has given me today. I commend him for his efforts.

Mr. President, I yield the floor.

UP AMENDMENT NO. 796

(Purpose: To provide that a State may have the Secretary make payments to SSI recipients)

Mr. DANFORTH. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. An amendment is pending.

Mr. DANFORTH. Mr. President, I ask unanimous consent that consideration of this amendment may be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) for himself, Mr. BRADLEY, and Mr. HEINZ, proposes an unprinted amendment numbered 796.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new section:

(f) At the option of the State, any portion of such State's allotment may be reserved by the Secretary for the purpose of making direct payments to eligible households containing a recipient of supplemental security income benefits under title XVI of the Social Security Act for home energy assistance in accordance with guidelines issued by the Secretary.

Mr. DANFORTH. Mr. President, this amendment is offered on behalf of myself, Senator BRADLEY, and Senator HEINZ.

The amendment is very simple. It provides the States an additional option for use of their block grant moneys. The amendment would permit the States, at their option, to have the Social Security Administration send cash payments directly to SSI recipients in their States. Most States do not have comprehensive lists of low-income elderly or existing mechanisms to deliver assistance to that population. Nevertheless, a State may reasonably decide that the best way to reach the elderly poor and the disabled poor is through an automatic payment which does not require any kind of a new signup or new forms, and does not require the person to leave his or her home. Our amendment frees the State from undertaking an expensive and duplicative mailing of checks to accomplish this purpose. Rather, the States can use the existing SSI mechanism.

What our amendment does is give the States flexibility in designing a program of energy assistance for their low-income population. It does not dictate any particular approach. We have checked with the National Governors' Association about our amendment. Not surprisingly, the National Governers' Association, as a generic policy, supports State options, and we were informed our amendment is within the rubric of this policy.

Mr. BRADLEY subsequently said:

Mr. President, I urge the Senate to adopt the Danforth-Bradley amendment.

Under the direct-payments approach versus the vendor-payments approach, which is also provided for in the bill, States must reach all eligible households, including SSI, AFDC, and food stamp recipients, as well as those under the BLS income standard. Supplementation of the SSI and AFDC monthly checks may be an attractive option to some States in serving these eligible households. This amendment assures that a State will continue to have that option.

It continues arrangements States will have made under the fiscal year 1980 program to have the Social Security Administration of HEW send out energy assistance payments directly to SSI recipients as supplements to their monthly checks.

Most States do not currently have lists of SSI recipients because they either first do not provide SSI state supplementary payments (23 States), or second, have turned over the State SSI supplement program to SSA administration, precisely for convenience and efficiency reasons (17 States). Only 11 States administer their own State SSI supplements and therefore have the lists and, more importantly, the administrative mechanisms in place to reach the SSI eligible population with these payments.

For the remaining 40 States, the process of obtaining the SSI rolls and then of developing the administrative machinery to serve this population would be time-consuming, costly, and duplicative of an existing, if Federal, mechanism.

Finally, our intent is to provide States with the option of having the SSA send direct cash payments to SSI recipients. They are not required to do so. Enhanced flexibility is desirable for the States as they develop plans to meet part of the energy costs of their low-income population.

Mr. President, I urge the Senate and the distinguished chairman, Senator WILLIAMS, to accept this amendment.

Mr. WILLIAMS. Mr. President, this approach, using the Secretary of HEW for the direct application of the SSI benefits, was included in our original bill when we dealt with the 1980 program. It seemed to make a great deal of sense to let the States relieve themselves of part of the administrative program and designate the Secretary to pay directly through the SSI mechanism.

I believe it is administratively sound. We had it in the original bill, while we were dealing with 1980. It makes as much sense to carry it into 1981. I believe it is a contribution to the bill that I can accept.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. DANFORTH. I yield.

Mr. DURKIN. Is the thrust of the amendment to give the Governor the option, so that if he wants to go SSI or entirely bloc grant, it is up to the Governor?

Mr. DANFORTH. That is correct.

Mr. DURKIN. Will the Senator add my name as a cosponsor?

Mr. DANFORTH. Mr. President, I ask unanimous consent that the name of the Senator from New Hampshire be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, my distinguished colleagues, Senators DANFORTH and BRADLEY and I have offered an amendment unprinted No. 796 to the Low Income Fuel Assistance Act, S. 1724, that would permit States to have an option of letting HEW send out fuel assistance checks to SSI recipients.

I strongly favor this proposed amendment because I believe that HEW has the capacity now to identify and reach recipients simply by looking at the names on their current roles. SSI is a Federal program, and HEW is capable of expediting the delivery of checks to SSI recipients. If a State wishes the option of having HEW send out payments, surely it would be reasonable for us to provide the State with that flexibility.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MILITARY CONSTRUCTION APPROPRIATIONS, 1980

The PRESIDING OFFICER. The hour of 2 p.m. having arrived the question recurs on H.R. 4391 which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 4391) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, as far as I know there is no one on this side of the aisle who desires to be heard at this time. I am prepared to yield back the 5 minutes allotted to us but will first yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, so far

as I know, there has been no request for time on the military construction bill either. If there is no request for time, I join the Senator from Kentucky in offering to yield back our time and have the vote now.

Mr. HUDDLESTON. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arizona (Mr. DECONCINI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER) would vote "yea."

The PRESIDING OFFICER (Mr. BUMPERS). Have all Senators in the Chamber voted? Does anyone else wish to vote?

The result was announced—yeas 91, nays 2, as follows:

[Rollcall Vote No. 402 Leg.]

YEAS—91

Armstrong	Glenn	Nelson
Baker	Goldwater	Nunn
Baucus	Gravel	Packwood
Bellmon	Hart	Pell
Bentsen	Hatch	Percy
Biden	Hayakawa	Pressler
Boren	Heflin	Pryor
Boschwitz	Heinz	Randolph
Bradley	Helms	Riegle
Bumpers	Hollings	Roth
Burdick	Huddleston	Sasser
Byrd, Harry F., Jr.	Humphrey	Schmitt
Byrd, Robert C.	Inouye	Schweiker
Cannon	Jackson	Simpson
Chafee	Javits	Stafford
Chiles	Jepsen	Stennis
Church	Johnston	Stevens
Cochran	Kassebaum	Stevenson
Cohen	Laxalt	Stewart
Cranston	Leahy	Stone
Culver	Levin	Talmadge
Danforth	Long	Thurmond
Dole	Lugar	Tower
Domenici	Magnuson	Tsongas
Durenberger	Mathias	Wallop
Durkin	Matsunaga	Warner
Eagleton	McClure	Weicker
Exon	McGovern	Williams
Ford	Metzenbaum	Young
Garn	Morgan	Zorinsky
	Muskie	

NAYS—2

Hatfield	Proxmire

NOT VOTING—7

Bayh	Melcher	Sarbanes
DeConcini	Moynihan	
Kennedy	Ribicoff	

So the bill (H.R. 4391), as amended, was passed.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HUDDLESTON, Mr. INOUYE, Mr. JOHNSTON, Mr. SASSER, Mr. MAGNUSON, Mr. HOLLINGS, Mr. LAXALT, Mr. STEVENS, Mr. YOUNG, and Mr. SCHMITT conferees on the part of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

PRIORITY ENERGY PROJECT ACT OF 1979

Mr. JACKSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1308.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1308) entitled "An Act to provide for an expedited and coordinated process for decisions on proposed non-nuclear energy facilities, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That (a) title I of the Energy Policy and Conservation Act (42 U.S.C 6201 and following) is amended by adding the following new part at the end thereof:

"PART C—PRIORITY ENERGY PROJECTS

"SHORT TITLE

"SEC. 171. This part may be cited as the 'Priority Energy Project Act of 1979'.

"PURPOSES

"SEC. 172. The purposes of this part are to exercise the congressional authority under the Constitution to regulate interstate commerce by—

"(1) providing a means to designate certain non-nuclear energy conservation and production projects, including energy research and development projects, the prompt implementation of which is in the national interest; and

"(2) establishing coordinated schedules for the expeditious making of Federal, State, local, and other governmental decisions, including judicial review thereof, respecting such designated projects, consistent with other applicable provisions of law, and establishing certain other procedures regarding such designated projects.

"DEFINITIONS

"SEC. 173. As used in this part, the term—

"(1) 'Agency' means a Federal agency or an agency or instrumentality of a State or local government or of a special governmental authority.

"(2) 'Agency decision' means any decision required to be made, or any other action required to be taken, by any agency with respect to any Priority Energy Project.

"(3) 'Board' means the Energy Mobilization Board established pursuant to section 174.

"(4) 'Energy project' means any project or device to be used, or activity to be carried out, by any person in connection with the exploration for, the development, transportation, production, commercialization of, or the conservation or efficiency in the use of, any form of energy. Such term includes any equipment, building, mine, well, rig, pipeline, transmission line, processing project, transportation-related device, manufacturing project, or installation or any combination thereof to be used for such purposes.

"(5) 'Federal agency' means an executive agency as defined in section 105 of title 5 of the United States Code, the departments described in section 102 of such title 5, and the Executive Office of the President.

"(6) 'Person' means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any Federal agency, any agency or instrumentality of a State or local government, or a special governmental authority.

"(7) 'Priority Energy Project' means a proposed energy project which is designated pursuant to section 178 of this part.

"(8) 'Special governmental authority' means an interstate or regional authority or an Indian tribe.

"(9) 'State' means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"ENERGY MOBILIZATION BOARD; ESTABLISHMENT AND AUTHORITY

"SEC. 174. (a) The President is authorized to establish for purposes of this part an Energy Mobilization Board to consist of five members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated Chairman by the President.

"(b) Members of the Board, other than the Chairman, shall be entitled to receive compensation at the rate prescribed for level IV of the Executive Schedule. The Chairman shall be entitled to receive compensation at the rate prescribed for level III of the Executive Schedule. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. The Board shall have a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule.

"(c)(1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel as he deems necessary to carry out the functions of the Board.

"(2) Upon request of the Chairman, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

"(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

"(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

"(d)(1) The Board may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders, as may be necessary to carry out its functions under this part. The Board may institute, or participate in, such court

or agency proceedings as may be necessary to carry out its functions under this part. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

"(2)(A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within any State at any designated place of hearing within any State.

"(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

"(C) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(e) Whenever the Board submits to the President or the Office of Management and Budget, any legislative recommendation or testimony, or comments on any legislation, prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives.

"(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee or subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce and the Committee on Science and Technology of the United States House of Representatives fully and currently informed concerning its activities. The Board shall submit an annual report to such committees concerning the actions taken, or to be taken, under this Act. The report shall contain such other information relating to energy projects as the Board deems appropriate.

"CERTAIN PROJECTS NOT COVERED

"SEC. 175. Nothing in this part shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974, or to any project which is, or may be, approved under the provisions of title V of the Public Utility Regulatory Policies Act of 1978; except that in the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

"THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

"SEC. 176. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system.

"AUTHORITY TO APPLY FOR PRIORITY STATUS

"SEC. 177. (a) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this part. Such procedures and criteria shall require applications to include such detailed information as the Board deems necessary to—

"(1) enable it to make such a designation under this part,

"(2) identify each agency required to make an agency decision with respect to such project,

"(3) enable such agencies to identify the agency decisions which they are required to make with respect to such project, and

"(4) enable the Board to establish a Project Decision Schedule for the applicant and for such agencies.

"(b) The Board shall require any person making an aplication under this section to file with the Board such additional information as it deems necessary, including—

"(1) an adequate design proposal for the project;

"(2) economic data on the costs and benefits of the project; and

"(3) an analysis of the environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, health, or safety hazards.

"(c) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

"(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate agencies and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs and Science and Technology. The Board shall afford forty-five days after publication of notice in the Federal Register for such agencies and other interested persons to submit written comments for the Board's consideration.

"DESIGNATION OF PRIORITY ENERGY PROJECTS

"SEC. 178. (a) Not later than forty-five days after expiration of the comment period under section 177(d) with respect to any application under section 177, the Board shall—

"(1) issue an order in accordance with this part designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

"(2) refuse to issue such an order.

"(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs and Science and Technology.

"(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

"(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

"(2) the magnitude of any economic, social, and environmental impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

"(3) the extent to which the energy project would make use of renewable energy resources;

"(4) the extent to which the energy project would conserve energy;

"(5) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

"(6) the time that would normally be required to obtain all necessary agency decisions;

"(7) the adverse impacts that would result from—

"(i) the designation of the energy project as a Priority Energy Project, or

"(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

"(8) the extent to which the energy project would impinge upon the quantity and quality of presently available and future water resources;

"(9) the comments received concerning the energy project;

"(10) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

"(11) the availability of significant economic, environmental, or technical data; and

"(12) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants.

In the case of any order designating a project under this section, the order shall contain a statement of the basis on which such designation was made and such other information as may be appropriate.

"(d) Upon receipt of an application pursuant to section 177 of this part for the designation of an electric powerplant, as defined in section 103(a)(7) of the Powerplant and Industrial Fuel Use Act of 1978, as a Priority Energy Project and after an opportunity for public comment on such application pursuant to such section, the Board shall designate such powerplant as a Priority Energy Project, in accordance with section 178, if such powerplant is seeking, as determined by the Secretary of Energy, to use coal or a coal derived fuel as the primary energy source either (1) through conversion to such fuel from the use of oil or natural gas as the primary energy source for such powerplant, or (2) through construction of a new powerplant to replace an existing powerplant that uses oil or natural gas as the primary energy source.

"(e) The Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agen-

cy decisions with the appropriate agencies as soon as possible in order that agency decisions may be expedited.

"STATE PARTICIPATION

"SEC. 179. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State in which any portion of such Project is proposed to be located, and each such Governor may appoint a nonvoting Member to serve on the Board to participate only in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 174(b) shall not apply to the Member of the Board appointed under this section.

"COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

"SEC. 180. (a) Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 183, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 1022(C) of the National Environmentay Policy Act of 1969. If the Council determines that any such action relating to a Priority Energy Project will be a major Federal action, the Council shall designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council on Environmental Quality fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

"(b) Notwithstanding any other provision of law, the Board, after consultation with the Council on Environmental Quality and appropriate Federal agencies, may require that one environmental impact statement be prepared and that such statement be used by all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969.

"EXTENSION OF DEADLINES

"SEC. 181. The Board may extend the time for receiving comments under section 177 (d), the time for making its determination and publication under section 178 in the case of any application for designation of any energy project as a Priority Energy Project, the time for agencies to transmit information under section 182, and the time for publication by the Board under section 183(a) of a Project Decision Schedule. Any such extension shall be consistent with the purposes of this part and shall be for only such period as may be necessary, as determined by the Board.

"AGENCIES TO TRANSMIT INFORMATION

"SEC. 182. Not later than thirty days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each agency having authority to make any agency decision with respect to such Project or any part thereof, shall transmit to the Board—

"(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements applicable to such actions and to the making of such decisions;

"(2) a tentative schedule for completing such actions and making such decisions;

"(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

"(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any Priority Energy Project at any time and in any manner.

"PROJECT DECISION SCHEDULE

"SEC. 183. (a) Not later than thirty days after agencies are required to transmit information under section 182 with respect to any Priority Energy Project, the Board, in consultation with the appropriate agencies, shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also suggest concurrent review of applications and joint hearings by such agencies.

"(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 182 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, its reasons for such determination. The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.

"(2) Whenever the Project Decision Schedule is not consistent with any schedule which would otherwise apply, such Project Decision Schedule shall apply in lieu of such otherwise applicable schedule and shall be binding on the agency and on all other persons to which the Schedule applies.

"(3) In the case of agency decision or action subject to the Project Decision Schedule, the agency may modify any schedule applicable to such action or decision (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule. No such agency may modify the Project Decision Schedule pursuant to the authority contained in this paragraph.

"(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure adequate consideration of all matters concerning such Project under applicable law and to insure adequate participation by parties in applicable proceedings.

"(5) Any agency may consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies respecting actions and decisions which are also subject to such Schedule.

"(c) In consultation with any person responsible for—

"(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such project which is necessary before such agency decision may be made

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for submissions by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made and the materials which must be submitted.

"(d) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time. No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

"(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

"(2) it would be impractical for the agency to reach a decision or to complete the required action within the specified time,

taking into account the personnel and funds available to the agency for complying with such Schedule.

"MONITORING OF COMPLIANCE BY BOARD

"SEC. 184. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register, and may take such actions as it deems appropriate to bring such agency and other persons into compliance with the Project Decision Schedule. If the Board determines that any person responsible for—

"(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such Project which is necessary before such agency decision may be made,

has failed or refused to promptly file such application or petition or take such other action, the Board shall either revise such Project Decision Schedule or revoke the designation of such Priority Energy Project under section 178.

"AGENCY OBLIGATIONS NOT AFFECTED

"SEC. 185. (a)(1) Except as may otherwise be provided pursuant to the establishment or modification of a deadline or timetable by the Board under section 183 or 186(a)(2)(A) or pursuant to the modification of a schedule by an agency under 183(b)(3), the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

"(2) Paragraph (1) shall be subject to section 186.

"(b) Except as permitted under the authorities referred to in subsection (a), nothing in this part shall—

"(1) affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law,

"(2) affect the basis on which any agency decision is made with respect to such a project, or

"(3) affect or influence the outcome of any such agency decision.

"(c) Nothing in this part shall be construed to affect the authority or independence of any independent Federal regulatory agency.

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 186. (a)(1) If the Board determines, pursuant to its monitoring under section 184, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within thirty days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor or each State affected by the project.

(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement establish by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provide in section 189(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a susbtantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsecsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspect adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection, any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which

is part of the Project, would present a substantial impediment to implementation of the project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of five years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirements to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e)(1) Not later than forty-five days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the project. The Board may extend the forty-five-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

"PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

"SEC. 187. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 183 or 186(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

"(b) No recommendation may be made by the Board with respect to a waiver, no determination may be transmitted by the President with respect to a waiver, and no waiver may take effect under section 185, if such waiver would—

"(1) waive any Federal, State, or local requirement which relates to—

"(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives.

"(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

"(C) criminal laws, or

"(D) civil rights laws;

"(2) waive any Federal, State or local requirement which involves any primary air quality standard established under the Clean Air Act;

"(3) have the effect of impairing or abridging any right or rights of any person arising under the Constitution of the United States;

"(4) contravene any interstate compact, provision of State or local law or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights;

"(5) have the effect of abridging or impairing the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project; or

"(6) have the effect of contravening the will of the electorate as ascertained in any local or State initiative or referendum which was specifically related to the establishment of an energy project.

"(c) Notwithstanding any provision of this part, no requirement may be waived under this part with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

"WATER LAW

"SEC. 188. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

"(b) The United States, its agents, permittees, or licensees shall appropriate water within any State for an energy project pursuant to the procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

"(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

"(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

"JUDICIAL REVIEW

"SEC. 189. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 178, the granting or denying of an extension under section 181, the establishment of a Project Decision Schedule under section 183, and any action of the Board under section 184, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2) The making of any waiver recommendation by the Board or waiver determination by the President under section 186 shall not be subject to judicial review, except as required by the Constitution or as permitted under paragraph (3).

"(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after the approval of a determination transmitted by the President to the Congress under section 186 requesting the court to enjoin or grant other appropriate relief with respect to any waiver approved pursuant to such determination if such waiver is inconsistent with any prohibition contained in section 187, and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

"(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

"(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

"(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

"(4) In issuing a final order in any action for review of any final agency action which

is covered by a Project Decision Schedule, the court may award costs of litigation (including attorney and expert witness fees) to any party when in the determination of the court such action was brought frivolously with no essential purpose beyond delay.

"REPORT

"SEC. 190. Not later than December 31, 1981, and annually thereafter, the Board shall prepare and transmit to the Congress a report which contains a comprehensive list of all Federal laws and regulations that significantly hinder the completion of energy projects, and which includes an analysis of why each law or regulations listed in the report is a significant hindrance to the completion of such projects.

"EFFECTIVE DATE

"SEC. 191. The Board shall promulgate regulations for carrying out its functions under this part (including regulations establishing procedures and criteria under section 177) not later than sixty days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this part for designation of any project as a Priority Energy Project before promulgation of such regulations.

"EXPIRATION OF AUTHORITY

"SEC. 192. The Board shall cease to exist, and the authority provided to the Board under this part, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any Project Decision Schedule established under this part for any Priority Energy Project prior to the expiration of such authority, and, to the extent practicable, the other provisions of this part applicable to such project, shall continue to be applicable to such project after September 30, 1985.

"AUTHORIZATION

"SEC. 193. There is authorized to be appropriated to the Board to carry out the provisions of this part not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorization.".

(b) The table of contents for such Act is amended by inserting after the item relating to section 166 the following:

"PART C—PRIORITY ENERGY PROJECTS

"Sec. 171. Short title.
"Sec. 172. Purposes.
"Sec. 173. Definitions.
"Sec. 174. Energy Mobilization Board; establishment and authority.
"Sec. 175. Certain projects not covered.
"Sec. 176. The Alaska natural gas transportation system.
"Sec. 177. Authority to apply for priority status.
"Sec. 178. Designation of priority energy projects.
"Sec. 179. State participation.
"Sec. 180. Compliance with NEPA.
"Sec. 181. Extension of deadlines.
"Sec. 182. Agencies to transmit information.
"Sec. 183. Project Decision Schedule.
"Sec. 184. Monitoring of compliance by Board.
"Sec. 185. Agency obligations not affected.
"Sec. 186. Enforcement of Project Decision Schedule.
"Sec. 187. Prohibition against waiver of certain rights and laws.
"Sec. 188. Water law.
"Sec. 189. Judicial review.
"Sec. 190. Report.
"Sec. 191. Effective date.
"Sec. 192. Expiration of authority.
"Sec. 193. Authorization.".

Amend the title so as to read: "An Act to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes.".

Mr. JACKSON. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. CHURCH, Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. DURKIN, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. MELCHER, Mr. TSONGAS, Mr. BRADLEY, Mr. HATFIELD, Mr. MCCLURE, Mr. WEICKER, Mr. DOMENICI, Mr. STEVENS, Mr. BELLMON, and Mr. WALLOP conferees on the part of the Senate.

CAMBODIA'S ANGUISH

Mr. JACKSON. Mr. President, these days all of us are haunted by the great human tragedy in Cambodia. A whole nation is on the verge of dying. This is the International Year of the Child, but in Cambodia and in the refugee camps in Thailand, the children are wasting away in the arms of their helpless mothers. What an arbitrary, heartbreaking fate for those we are supposed to honor this year. What a mockery for those who planned the year of the child, and what a terrible way to observe it.

The situation has been amply documented. Senators SASSER, BAUCUS, and DANFORTH, who were in Cambodia late last month, have reported the facts. It is estimated that the current population of Cambodia is 4 to 5 million people, and that 2 to 3 million are facing starvation. One-half of this number are expected to die in the next few months unless massive emergency aid is provided. Thousands die every day; most die slowly, racked by disease and starvation, and tortured by the suffering of their loved ones. The situation will be getting worse; too few crops have been sown, and there will be too little to harvest. Without major assistance, the people of Cambodia will lack the necessary nutrition to sustain even a moderate birth rate: Those few weak children who are born will face a severe problem surviving their infancy.

We should recognize that the current Cambodian Government and its Vietnamese masters have selectively withheld food as a conscious policy in pursuit of their goals. In some parts of the country, food has been used to undermine the forces of the old regime. In certain areas, food utensils have been confiscated and foraging declared a crime as a means to keep the local people weak and docile.

Mr. President, this is a totally cynical disregard for basic human decency. This constitutes genocide—literally.

External assistance is absolutely essential. Funds for food and medical aid must be raised. At the UN-sponsored "pledging conference" a week ago, concerned governments pledged $210 million in cash and supplies for the relief effort. This is about two-thirds of the $310 million goal set by Secretary General Waldheim for humanitarian assistance to Cambodia in the next 12 months. Of the money raised at the conference, the U.S. commitment was $69 million, and the Congress has acted to authorize the necessary funds for this purpose. These developments are encouraging, along with the many contributions from private groups and individuals in this country and around the world.

The critical problem lies in getting food and medical supplies into Cambodia, and distributing it. For food alone, the International Committee of the Red Cross has estimated that 1,000 tons are required each day, just to provide an emergency diet for the 2 to 3 million Cambodians in desperate need. This figure comes to 30,000 tons monthly, simply to feed Cambodians at the bare subsistence level.

Transport of emergency supplies by land and by sea is the most effective way to deliver the large amounts required. But Phnom Penh officials have so far resisted the proposal of Senators SASSER, BAUCUS, and DANFORTH for a "landbridge"—a truck convoy running with food and supplies from Thailand—operated by the ICRC and UNICEF. We should give strong support to the current negotiations with Phnom Penh authorities aimed at persuading them to cooperate with the worldwide humanitarian relief effort. If these negotiations fail, we must develop alternative avenues, including a major airlift, for delivering the needed supplies.

Our Government should continue to urge the Soviet Union, in the gravest possible terms, to acknowledge the pending holocaust in Cambodia, and to use its influence with its ally to persuade Phnom Penh to assist and share in the emergency feeding of the Cambodians.

The children of Cambodia do not support political regimes—they simply insure the future of their people.

HOME ENERGY ASSISTANCE ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of S. 1724, to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

The pending question is on agreeing to the amendment (No. 566) of the Senator from Pennsylvania (Mr. SCHWEIKER). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 27, nays 68, as follows:

[Rollcall Vote No. 403 Leg.]

YEAS—27

Armstrong	Helms	Pell
Baker	Humphrey	Pressler
Bellmon	Jepsen	Proxmire
Biden	Kassebaum	Roth
Chafee	Laxalt	Schweiker
Cohen	Leahy	Stafford
Eagleton	Lugar	Stevens
Garn	McClure	Young
Hatch	Nelson	Zorinsky

NAYS—68

Baucus	Ford	Muskie
Bentsen	Glenn	Nunn
Boren	Goldwater	Packwood
Boschwitz	Gravel	Percy
Bradley	Hart	Pryor
Bumpers	Hatfield	Randolph
Burdick	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heflin	Riegle
	Heinz	Sasser
Byrd, Robert C.	Hollings	Schmitt
Cannon	Huddleston	Simpson
Chiles	Inouye	Stennis
Church	Jackson	Stevenson
Cochran	Javits	Stewart
Cranston	Johnston	Stone
Culver	Levin	Talmadge
Danforth	Long	Thurmond
DeConcini	Magnuson	Tower
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	McGovern	Warner
Durkin	Metzenbaum	Weicker
Exon	Morgan	Williams

NOT VOTING—5

Bayh	Melcher	Sarbanes
Kennedy	Moynihan	

So Mr. SCHWEIKER's amendment (UP No. 556) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 797

(Purpose: To provide a set aside of funds for outreach for eligible households having elderly members)

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 797.

Mr. EAGLETON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, after line 24, insert the following:

(4)(A) From the sums appropriated pursuant to section 4(b) and made available under subsection (b)(1)(A) of this section, the Director shall reserve a sum not to exceed $3,000,000 in each fiscal year for outreach activities designed to assure that eligible households with elderly members are made aware of the assistance available under this Act. The Director shall enter into agreements with national aging organizations to carry out the provisions of this subparagraph.

(B) No payment may be made by the Director under this paragraph to any national aging organization unless the Director determines that such outreach activities will be coordinated with State outreach activities required under section 8(b)(16).

Mr. EAGLETON. Mr. President, as the distinguished Senator from New Jersey is well aware, his bill contains a requirement that each State plan make provision for outreach activities to insure that the eligible households with the greatest need for energy assistance are aware of the assistance made available under this program.

My amendment seeks to expand this State Outreach activity by authorizing the Director of the Community Services Administration to reserve up to $3 million of its $100 million set-aside to contract with national aging organizations to conduct outreach activities through their local clubs and memberships.

Mr. President, the national aging organizations have demonstrated an unusual capability to conduct a systematic, coordinated approach toward Outreach to those who may not know assistance is available. In 1965, the then Office of Economic Opportunity initiated operation medicare alert to inform the elderly of their rights and opportunities under the recently enacted medicare legislation. A massive campaign was launched to develop projects employing teams of older people on door-to-door canvasses to find those elderly not yet signed up for medicare. Using this new approach, an astounding 3.8 million older persons were contacted on an individual basis.

The success of operation medicare alert was due in large measure to the national aging organizations with affiliated clubs and members across the country. Many offered their cooperation in organizing personnel for operation medicare alert teams, and large numbers of these senior citizens were deployed into their communities to carry out the assignment.

Mr. President, I believe this additional authority to allow contracting with national aging organizations will enhance the ability to penetrate the isolation of the elderly poor who have disengaged themselves from their communities.

Mr. WILLIAMS. Mr. President, I believe that the Senator from Missouri raises an excellent point, and that his amendment makes a useful contribution to the legislation before us. As the Senator knows, I was one of the early advocates of operation medicare alert, and, in fact, sponsored legislation in 1966, the National Senior Community Service Corps Act, patterned after the successful operation medicare alert model.

I call to my colleagues' attention that in the committee deliberations on the Home Energy Assistance Act and related proposals, strong support was voiced on the need for effective Outreach programs to better insure that those who are in greatest need of assistance, regardless of whether they are presently served by Federal programs, are reached.

In my estimation, the national aging organizations, with their comprehensive and effective membership networks, have a long record of excellence in outreaching Federal, State, and local programs, and I believe their active participation in this endeavor could prove most beneficial to many of our senior citizens.

I am very pleased to support this amendment, feeling as I do that it is a very worthy approach and a worthy amendment.

Mr. EAGLETON. Mr. President, I yield 2 minutes to the Senator from Kansas (Mr. DOLE).

Mr. DOLE. Mr. President, I shall take just a moment, as the ranking Republican on the Finance Committee, to say that we have dealt with this general problem. I think the Senator from Missouri makes a valuable contribution. It is a good amendment. Often the most difficult group to reach in providing assistance of this kind is the elderly. If the elderly are contacted by groups with which they are familiar, they are more likely to respond favorably. So it is a good amendment. I hope it can be accepted.

Mr. EAGLETON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

UP AMENDMENT NO. 798

(Purpose: To substitute the Office of Management and Budget poverty statistics in lieu of statistics prepared by the Bureau of Labor Statistics)

Mr. BENTSEN. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 798.

Mr. BENTSEN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 1.

On page 23, lines 7–8, strike the words "the lower living standard income level" and insert in lieu thereof the words "125 percentum of the federal poverty level."

SEC. 2.

On page 19, strike line 4 through 9 and insert the following: "(3) '125 per centum of the federal poverty level' means 125 per centum of the official poverty line most recently established by the Office of Management and Budget."

Mr. BENTSEN. Mr. President, I think the committee has done an excellent job in drafting some legislation that tries to reach what is an appropriate formula, except for one provision. That provision is in part what we did in the Finance Committee. The Finance Committee worked long and hard, too, trying to devise a formula for assistance for people who are suffering from the increased cost of energy, but it put one different provision in its bill. I am proposing an amendment that will do that here.

What I am proposing is that we substitute for the poverty level in the index that is used in this particular piece of legislation the one that was established by the Office of Management and Budget. That would be in lieu of the Department of Labor Statistics—family budget lower-living standard. I propose that because the Bureau of Labor Statistics themselves say that their provi-

sion should not be used this way. I have a letter here from the Department backing up that position.

At present, two major series that purport to set income levels for poverty in our Nation are available. One, developed by the Bureau of the Census, has been used as the poverty measure for every Federal program save one. The Bureau of Labor Statistics sets a lower living standard, as defined as the cost of a basket of goods established in the mid-1960's.

The Bureau of Labor Statistics survey has been chosen for use in the distribution of funds because it allows for differences in the cost of living in different regions, and I think it is well and good that we allow for such differences.

I think that is well and good. I think we should allow for such differences. But I think we ought to do it in the most responsible way, using data that is both adequate and that pertains to the problems we are addressing.

The problem that this country faces is that America's poor have, as a result of skyrocketing energy prices, found themselves facing agonizing choices between necessities. This legislation has a single and narrow purpose: Helping the poor meet those energy bills so that they will not be confronted with so grievous a choice.

And the legislation we have before us, does allow substantially for the differences in the cost of energy from region to region, fully one-half of the funding is distributed according to what the average household in the State is billed for its energy use. That is one-half of it, but to allow the funds to be distributed according to the cost of other consumer commodities would be similar to creating an "age of housing" factor in the distribution of highway construction funds.

It just does not relate to what this particular legislation is aimed at trying to correct.

Not only is the distribution of funds according to the Bureau of Labor Statistics not appropriate, in addition, the survey performed in establishing this data is inadequate for establishing patterns nationwide. The data for the BLS series is gathered in a survey of only 43 urban areas—in fact, entire States are not surveyed at all. And the Bureau of Labor Statistics notes, in each report they publish, the following warning: "The budgets do not represent how families of this type actually do or should spend their money, nor are they intended to represent a minimum level of adequate income or a subsistence level of living." The simple fact is that the BLS has fought all attempts to use their data as a poverty indicator. I hold here a letter from the director of Labor Statistics stating that "the lower budget was never intended to represent a poverty level—nor (was it) intended to represent a minimum level of adequate income or subsistence level of living."

That is the letter from the Commissioner that I have here and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. LLOYD BENTSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BENTSEN: I am writing in response to the telephone request from your staff concerning the Bureau of Labor Statistics (BLS) Family Budgets. The program began many years ago with one hypothetical budget level, the cost of a "modest but adequate" standard of living for a four-person family headed by a fully employed head of household. This level was later adjusted upward and downward to represent a somewhat lower and somewhat higher standard. The lower budget was never intended to represent a poverty level.

Note in the attached press release the paragraph on page 7 which states, ". . . nor are they intended to represent a minimum level of adequate income or a subsistence level of living." I am also enclosing material from a recent study by the Department of Health, Education, and Welfare, "The Measure of Poverty," which discusses the BLS Family Budgets.

Sincerely yours,

JANET L. NORWOOD,
Commissioner.

OTHER NEEDS

Very little work has been directed toward developing minimum standards for basic needs besides food and housing, such as clothing, transportation, and education. As noted before, the current Orshansky poverty measure multiplies food costs by a factor of three to develop a total income level.

The only systematic work by a Federal agency on standards for other needs has been in connection with the Bureau of Labor Statistics (BLS) family budgets, first issued in 1948. In 1967, the BLS developed three budget levels—"lower," "intermediate," and "higher"—for a four-person urban family with an employed husband aged 38, his nonworking wife, and two children aged 8 and 13, and for a retired couple with both husband and wife aged 65 or older. The intermediate budget was designed to represent a "modest but adequate" standard of living, and costs for this budget were then scaled to produce the other two budgets. The budgets are periodically updated for price changes in the broad components of the Consumer Price Index (CPI). The BLS also developed equivalence scales based on patterns of food expenditures, to use in determining budget costs for different kinds of families as percentages of the base four-person family. These equivalence scales were for different family types by age of need, number of persons in the family, and number and age of children.

None of the BLS budgets, including the lower one, was intended to be an absolute standard of need, much less a poverty standard. They are not based on minimum quantities or prices of necessary goods and services, but rather are descriptive of relative levels of living. They apply to the family of a year-round full-time worker with 15 years of work experience. In Autumn 1974, the lower BLS budget for a four-person family was $9,198 or more than 80 percent higher than the 1974 weighted average nonfarm poverty threshold of $5,038. The Orshansky poverty matrix was based on the Department of Agriculture's economy food plan. The BLS budgets use the low, intermediate, or liberal cost food plans.

SOURCE.—*The Measure of Poverty,* U.S. Department of Health, Education, and Welfare, April 1976.

Mr. BENTSEN. Mr. President, clearly, since the very people who develop this data think it is inadequate, it is beyond the wisdom of the Senate to deem it right and proper. There is a more adequate indicator of poverty available, and that indicator has been used by this Government as the poverty indicator in all but one of its programs that address the needs of poor.

That indicator, developed by the Bureau of the Census for the Office of Management and Budget, is a trusted benchmark of poverty in our Nation. At the core of this survey is the assumption that there is a subsistence level for expenditures for food, as defined by the Department of Agriculture.

Additionally, that amount represents about one-third of the annual family budget. Therefore, the poverty level was set at three times the cost of the Department of Agriculture's economy food plan.

The census then surveys the entire Nation, in fact, they surveyed over 150,000 households in 1976 to assist in their development of more precise poverty statistics. Annual revisions are made based on price changes that occurred over the previous year. The data is adequate, the numbers reflect a true measure of poverty. It is clear that this is the standard on which the Congress should depend when assessing the levels of poverty among the States.

I, therefore, urge my colleagues to support this amendment, substituting a trusted, complete, survey of poverty for one that is, even according to those who prepare it, inadequate for making nationwide assumptions of poverty among the States.

Mr. President, do we have a time allocation for amendments?

The PRESIDING OFFICER. There is no time agreement.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, the amendment offered by the most distinguished Senator from Texas brings to us an approach that is one we recognized in the committee for early application of a rough formula for equity in distribution of funds to people in lower incomes faced with the crisis they now face in their lives with the skyrocketing energy costs.

In this bill, we are not dealing with this year's reaction to this year's crisis, but we are legislating for the later years of 1981 and 1982.

With this time factor favoring a very close examination of the problems that poor people have, and they will vary in degree from region to region and from city to country, it was developed that the BLS—Bureau of Labor Statistics—data have lower living standards, and more finely tunes and adjusts to the needs of the people in various parts of the country.

So the major difference between the two bases, the poverty base as determined by OMB, and the BLS, the lower living standard, is that the BLS data has geographic variation related to the cost of living, while the poverty base is a national standard and is fixed.

For example, it is fixed at this point at $5,700 for a farm family of four, $6,700 for a nonrural family of four.

I might also add that the geographical adjustment in the Bureau of Labor Statistics data has furnished the basis

for a large-scale operational program (CETA).

Overall it has worked well in this large-scale operation.

In comparison, the poverty data is adjusted only for farm and nonfarm families. Most, if not all, of the distributional formulas that use poverty adjust the impact by giving weight to some other income-related factor.

The poverty index is updated annually by applying the change in the overall Consumer Price Index. The BLS budget is adjusted annually by applying the change in the various components of the CPI to individual portions of the budget; that is, if medical care costs increased by 10 percent and food costs by 5 percent each, the food and medical care components of the budget will be adjusted in the appropriate amount. Also, the budgets are adjusted by the local change in the CPI and not by the national average. Thus disproportionate fuel cost increases in a particular area will show up in the BLS data but not in the poverty data but this information will, however, be as much as a year out of date.

The poverty index was developed from data that showed that low-income persons spent one-third of their income on food. The price of a minimally adequate food budget was taken from the Agriculture Department data and that amount multiplied by three. That relationship between food expenditures and total income was of course, established before the advent of the food stamp program which has significantly affected the cash expenditure patterns of the poor. While some criticism may be leveled at the use of BLS, because it is based on value judgment to some degree, the same argument can be used against the use of the poverty index.

It just seems to me, if we have—and we do have now—the time to do what I would suggest is a far more equitable approach to finding those who will be in need of this particular program, we ought to do it.

The Bureau of Labor Statistics approach does recognize the variations among the regions in a much more refined way than the poverty index, and, as a result, it will clearly reach many more people such as the elderly, and the working poor who have a need for this program and would not be reached if the poverty level were used.

There are those who fall above the poverty line that are going to be desperate for assistance and the BLS would reach them. The poverty level does not.

Mr. JAVITS. Will the Senator yield?

Mr. WILLIAMS. I am happy to yield.

Mr. JAVITS. Mr. President, to me, the two principal factors are, one, the differentiation based upon the cost of living in various parts of the country with our standard varying according to the cost of living and the poverty standard being uniform.

But the other thing which deeply interests me, and I hope the Senate, I am very solicitous about the working poor. I like to keep them working.

The virtue of our standard is that it does include a much greater part of the working poor who fall within that bracket—that is, between these two stools.

The answer is that if we adopt the plan of the Senator from Texas, we will be reaching about 13 million units of objective beneficiaries. If we adopt our plan, we will be reaching more than 17 million, and that is the working poor bracket.

I have no idea what it does to us or to him or to any of us. I am trying to find out, as a matter of fact. But I like very much to fashion these programs to include the working poor, also. I do not want to see them get hit because they are working. That is what I feel this does, and therefore I personally prefer, for the reasons I have given, the standard which the Committee on Labor and Human Resources has adopted.

Mr. BENTSEN. Mr. President, what we are all trying to do is to achieve equity here, and I recognize that on the part of the distinguished Senators who are managing the bill for both the majority and the minority.

The problem is that you have just so much money to utilize here. When you talk about extending it to additional groups of people, that means you dilute it to that extent for the individual recipients.

Also, the point I make is that the survey as utilized by the Office of Management and Budget and the one that is prepared by the Bureau of the Census is the one that is used on every one of these Federal programs except one, only one, where it is not utilized.

In addition, the commissioner, Commissioner Jane Norwood, states that it does not reflect properly what we are trying to achieve here. They only surveyed some 43 urban areas. Entire States were not surveyed at all. So it is not a true and accurate barometer.

We should follow the guidelines of what is being utilized in virtually every program except one and what we utilized in the Finance Committee in trying to arrive at the formula.

Frankly, a member of our committee is also a member of the Finance Committee, and we were swapping information back and forth and trying to achieve what the Senators are talking about—equity. But we felt that we should utilize the firmest numbers, those that had the support of the Office of Management and Budget and were utilized in the other Federal programs.

I think we have numbers that can be counted on, when you take a look at the Bureau of Labor Statistics and find entire States were not surveyed, and you have to have some concern about the validity of those numbers.

I urge very strongly that we substitute the utilization of the Office of Management and Budget numbers which were developed by the Bureau of the Census, as proposed in my amendment, and I urge the adoption of the amendment.

Mr. BRADLEY. Mr. President, I am pleased to add my support to the bill fashioned under the leadership of my senior colleague, Senator WILLIAMS, the distinguished chairman of the Committee on Labor and Human Resources, and to argue strongly for the committee's viewpoint on this issue.

It seems to me that if one is going to say that only 43 urban areas in the Nation are represented under the BLS statistics, one should list those urban areas that are excluded in such list. To argue further that because it never has been done this way, we should not do it in the future, seems to me to be an argument which bears some scrutiny.

This bill will provide critical assistance to low-income households in meeting their increased energy costs. Senator WILLIAMS' efforts have been widely hailed throughout our own State as a critical contribution to meeting the severe energy costs many citizens will face this winter and beyond. I know other States confronting the same problems of colder climates and skyrocketing energy prices will welcome this legislative effort to meet the energy needs of America's low-income households.

The Finance Committee devoted a substantial amount of time to its own consideration of low income energy assistance in connection with the windfall profits bill. While there are differences between the version we reported and S. 1724, I believe that the two bills share many features in common and would have similar benefits for the population we are seeking to aid.

This bill establishes a new energy assistance program beginning in fiscal year 1981 which provides energy assistance through formula block grants to the States. The $3 billion authorized for 1981 and $4 billion for 1982 will be allocated to the States on an equitable basis according to how much a State's households spend on energy, how many days a year the temperature falls below a certain point, and the number of low income households. The States would then distribute these moneys to low income households according to plans they develop themselves. Their options include direct payments to eligible households and/or vendor payments to suppliers of energy to help pay the energy bills for these same households.

Finally, I would like to draw special attention to the amendment Senator CHILES has proposed be added to this bill which provides that specific efforts shall be made to include all eligible older Americans as recipients of energy assistance. The elderly, who tend to spend substantial amounts of time in their own homes and whose requirements for adequate heating are greater than for younger individuals, have been hit very hard by increasing energy costs. Fixed incomes do not go far in buying oil in today's marketplace. Every attempt should be made to reach the elderly, and I have joined Senator CHILES as a cosponsor to help insure that such efforts are made.

Mr. President, I urge the Senate to support the committee's action in including the BLS statistics as the measure of the energy grants.

I suggest, also, that it is an equitable measure for a great number of Federal programs that presently have only the poverty level, which, in States in many parts of the country that have high in-

flation rates, is an inadequate measure of true need.

Mr. BENTSEN. Did not the Senator support the Finance Committee choice on the Office of Management and Budget and the Bureau of the Census, and did we not discuss this at some length in trying to choose numbers that were valid?

Mr. BRADLEY. As the Senator knows, in the Finance Committee there were long discussions that pitted the Senator from Texas and the junior Senator from New Jersey on opposite sides of this issue; and in an effort to achieve some comity, we made those compromises on both sides of the issue.

In the process of legislating, the matter has moved from the committee to the floor. It is now on the floor, and we have an opportunity to adjust some of the errors we made in the committee, however committed and whoever was involved in the commission of those errors.

Mr. BENTSEN. I do not recall that the Senator had argued for the BLS approach at that time, although, as he quite correctly states, we had disagreed on some other things. But I think the Senator had accepted this one and had supported it and was not a part of the compromise.

Mr. President, I urge the adoption of the amendment.

Mr. WILLIAMS. Mr. President, I express my appreciation to my colleague from New Jersey for his statement in support of our measure and the approaches used.

I must recognize that the Senator from Texas is eminently right: There are many programs that use the poverty levels as the basis. These are the classical, the traditional welfare programs, and it is known.

It impresses me that we have something very new here in terms of social economic need. We have unprecedented new costs imposed upon households, and that is, the incredible increases in energy costs.

In going into our deliberations on energy assistance, we felt that we would be forced to consider a group that never had been considered part of welfare, and this is not a welfare bill. We have a national emergency, a national crisis. People are feeling an economic squeeze that, in the regular order of their lives, they never thought they would run up against. Obviously, they have not been able to prepare for these incredible increases in one of the essentials of daily living, and that is the energy we need to keep warm in the winter. Let us assist many needy households to avoid being faced with the awful choice of heat in the home or food on the table. And unfortunately, projections for the future indicate that these prices are just going to continue to go up.

This is not a welfare program at all. It is a national response to a national emergency that is reaching people who never have been part of AFDC or SSI or food stamps or the other programs that we consider welfare.

That is why this BLS base does reach a group of people not included within our traditional welfare programs.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. I have a good deal of experience with the BLS figures. Our colleague, for whom I have the deepest regard, is chairman of the Joint Economic Committee. We sit with them every month. We take their figures for the cost of living, for inflation, for unemployment. We consider them extremely reliable; we count on them. We act on them. I do not see why, suddenly, they are considered to be unreliable here, when we take them all the time. We consider them our absolute bible.

So I deeply believe that our committee was right in its approach, and again I emphasize the adjustment to the different costs of living in the country which our formula contains and the outreach to the working poor; because, in fact, 4 million or more household units are covered. My opinion as to how we wanted to go at it is that they should be covered rather than not covered, and the amendment would exclude it.

I hope the amendment is rejected.

Mr. DOLE. Mr. President, I have listened to the arguments. I do not remember any big discussion on this issue in the Finance Committee, but I am constrained to support the view of the distinguished Senator from Texas.

I am particularly impressed with the letter from Commissioner Norwood. I am not certain how vital the difference may be, but the Senator from Texas has obviously spent a lot of time researching the issue, and I support the Senator's position.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Kansas for his comments.

I must also say that in the Joint Economic Committee, as the distinguished Senator from New York has stated, we do have the Commissioner, Janet Norwood, before us time and time again, and she is a woman of great ability. I think that the Bureau does an excellent job. But we should not try to outreach their information, their statistics, and the information they have available. The Commissioner herself has stated that, in effect, time and time again when we have her before us. She is a very candid woman, and she does not indulge in rhetoric. But she will say, "Well, you know, we just do not have that information," or, "We have not done that." And we understand that.

In this situation, she makes the statement as I quoted, "Nor are they intended to represent a minimum level of adequate income or a subsistence level of living."

So again what we have seen is trying to stretch these numbers over States that have not even been surveyed. Entire States have not been surveyed.

My friend from New Jersey was talking about trying to develop equity in this, and I totally agree with him on that. But when he talks about this as an emergency situation that we are just going to have for the 2 years in 1981 and 1982, does anyone really believe we are just going to have that program for 1981 and 1982? We are going to have this program for years. It is going to continue on, and I think we should have it on the most solid numbers, the most valid numbers that we can possibly develop. The Office of Management and Budget and the Bureau of Census have worked long and hard to do that. That is why I ask we substitute that for it.

As far as it being great sums of money and they are going to be affecting my State in a very major way, no. There are other amendments that will be proposed that are much larger from a monetary standpoint, but it is just that I am trying to get us to stay to something that has been approved in every Federal program except one and to see that that kind of validity that is carried through is carried through in this program.

Mr. President, I am prepared to vote on it if the members of the committee are.

Mr. JAVITS. Mr. President, if I may be recognized, I believe that this question is such a real one that we should have in the RECORD the letter addressed to Senator BENTSEN by Janet Norwood dated November 7, 1979, from which he has quoted and the paragraph which he attached to her letter which describes the BLS budgets.

Mr. President, if I may just make one comment, I think this does raise a question. I think the issue between us is shall this be a "poverty program," a welfare program pure and simple, or shall it reach those people who will have what we consider to be an unacceptable financial strain by virtue of this situation?

I think we have chosen to make eligible those people who will have unacceptable financial strain, including several million of the working poor; whereas, the other definition ties it down to strictly the poverty proposition.

I believe that the runaway cost of home heating is so great that the standard which we have adopted is the just one as far as this situation is concerned and does include people to whom in a matter like this we should give some break, to wit, the working poor.

Mr. BENTSEN. Mr. President, I say to my colleague from New York that I asked that that letter be printed in the RECORD at a previous point. So perhaps we can avoid a duplicate.

Mr. JAVITS. May we put in, however, this paragraph?

Mr. BENTSEN. I had the whole thing printed in the RECORD.

Mr. JAVITS. It is already in?

Mr. BENTSEN. Yes.

Mr. JAVITS. I thank the Senator.

Mr. BENTSEN. I have no further comments to make. If Senators are prepared to vote, I am.

Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER (Mr. BAUCUS). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the

Senator from Indiana (Mr. BAYH), the Senator from Kentucky (Mr. FORD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN) and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 33, nays 56, as follows:

[Rollcall Vote No. 404 Leg.]

YEAS—33

Armstrong	Heflin	Randolph
Bentsen	Helms	Sasser
Boren	Hollings	Simpson
Bumpers	Huddleston	Stennis
Byrd, Harry F., Jr.	Johnston	Stewart
Byrd, Robert C.	Kassebaum	Talmadge
Cannon	Long	Thurmond
Chiles	Lugar	Tower
Cochran	McClure	Weicker
Dole	Morgan	Zorinsky
Exon	Nunn	
	Pryor	

NAYS—56

Baker	Glenn	Packwood
Baucus	Gravel	Pell
Bellmon	Hart	Percy
Biden	Hatfield	Pressler
Boschwitz	Hayakawa	Proxmire
Bradley	Heinz	Ribicoff
Burdick	Humphrey	Riegle
Chafee	Inouye	Roth
Church	Jackson	Schmitt
Cohen	Javits	Stafford
Cranston	Jepsen	Stevens
Culver	Leahy	Stevenson
Danforth	Levin	Stone
DeConcini	McGovern	Tsongas
Domenici	Magnuson	Wallop
Durenberger	Matsunaga	Warner
Durkin	Metzenbaum	Williams
Eagleton	Muskie	Young
Garn	Nelson	

NOT VOTING—11

Bayh	Kennedy	Moynihan
Ford	Laxalt	Sarbanes
Goldwater	Mathias	Schweiker
Hatch	Melcher	

So Mr. BENTSEN's amendment (UP No. 798), was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Scott Ginsburg, of the Subcommittee on Employment, Poverty, and Migratory Labor, be granted the privilege of the floor during the course of the debate and during rollcall votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 562

(Purpose: To simplify the State plan in order to provide for a block grant)

Mr. HUMPHREY. Mr. President, I call up amendment No. 562.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an amendment numbered 562.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, line 21, beginning with "Secretary" strike out through line 12, on page 35, and insert in lieu thereof the following: "Secretary.

"(b) Each such State plan shall—

"(1) designate any agency of the State to administer the program assisted by this Act;

"(2) describe a State program for furnishing home energy assistance to——

"(A) (i) home energy suppliers,

"(ii) eligible households, or

"(iii) any combination of home energy suppliers and eligible households, and

"(B) building operators,

for eligible households;

"(3) describe how the State will select eligible households;

"(4) describe the amount of assistance to be provided to or on behalf of participating eligible households;

"(5) describe the arrangements with home energy suppliers, eligible households, and building operators for payments under this Act;

"(6) provide assurances that (A) the State will use for administration of the State plan not to exceed 15 per centum of the costs of the carrying out the plan, and for the purpose of this clause, the Federal share of the costs of administration for any fiscal year shall be 50 per centum, and (B) the State will pay from non-Federal sources the remaining costs of administration;

"(7) provide for outreach activities through the use of public agencies and private organizations with particular emphasis on voluntary private organizations; and

"(8) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting of Federal funds paid to the State under this Act.".

On page 35, beginning with line 17, strike out through line 12 on page 36, and insert in lieu thereof the following:

"(d) The Secretary shall approve any State plan that addresses the matters set forth in subsection (b) and may not, by regulation or otherwise, require any more detailed assurances or representations by the State for the program to be assisted under this Act.".

On page 37, beginning with line 18, strike out through line 2 on page 38.

On page 38, line 4, strike out "SEC. 12." and insert in lieu thereof "SEC. 11.".

On page 38, line 9, strike out "SEC. 13." and insert in lieu thereof "SEC. 12.".

On page 38, line 13, insert after "regulations" a comma and the following: "in accordance with the provisions of section 8 (d),".

On page 39, line 20, strike out "SEC. 14." and insert in lieu thereof "SEC. 13.".

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have added as cosponsors the names of Senators DOLE, SCHWEIKER, HATCH, ROTH, and JEPSEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, this amendment would make the fuel assistance program for 1981 and 1982 more truly a block grant program. Flexibility at the State level would be enhanced, and bureaucratic requirements would be reduced.

At a time when the need for fuel assistance is so critical and Federal resources are so strained, we cannot afford to waste money on spurious reporting requirements and manipulation from Washington. Administrative costs must be minimized. The block grant approach is the most effective means to that end. Also, if the program is to remain crisis intervention, it is best not to establish a weighty Federal apparatus. To create such a fixture would be to promote a permanent entitlement, and I do not believe that this is the Senate's intention.

My amendment would require each State to submit a simplified plan to HEW. Mandated redtape would be minimized. The Secretary would evaluate whether a State is addressing the goals of the legislation, but she would not concern herself with dotting i's and crossing t's. The States should not have to follow a specific Federal design.

The States are best able to administer a fuel-assistance program. The argument is no longer valid that they do not have the organization to complete a large agenda. The States have been implementing large Federal programs for years now. They have the means, and they know local situations and local needs.

Under my amendment, the States would still have to provide fiscal controls and fund accounting procedures to insure that Federal funds are spent properly, and they would still have to limit the money they spend on administration—but the design and the implementation of the program would largely be left to them. We should remember that Governors, State legislators, and the heads of counties and municipalities are elected officials like ourselves. If they do a good job with this program, they stand to be reelected, and if they do poorly, they stand to lose. This is more than can be said for a program designed and implemented by Federal bureaucrats.

We in this Congress must come to realize, as the American people already have, that the growth of Federal power has had injurious ramifications. It has led to a stifling officiousness. It has led, increasingly, to a transfer of authority from elected representatives to unelected, tenured functionaries. It has led to the arrogant presumption that only Washington knows what is best for the American people. These trends must be reversed.

Federally funded programs should not be used to manipulate the States. The manipulators claim that local democratically elected governments cannot be trusted. They might employ a design not in keeping with the latest fad. They might cheat somebody, or operate inefficiently. Perhaps so—but what makes anyone think that the Federal Government has a monopoly of wisdom, efficiency, and justice? For my money, I will take my chances with State and local officials any day.

The question is whether we in this country still believe in democracy. Do we believe that people can and ought to run their own affairs, or do we now put our trust in professional strategists and

overseers who have no stake in the communities over which they pass judgment? There is absolutely no compelling reason why fuel assistance programs should not be designed and implemented by States and their communities.

We hear a great deal these days about political apathy, and how it may be endangering our political institutions. I suspect that this apathy largely stems from a sense people have that what they say does not matter anymore. Washington is too remote, and the country is too large. If civic affairs were more surely run from statehouses and townhalls, the voice of the individual would have more meaning.

Very simply stated, Mr. President, this amendment would strike from the legislation, as it now stands, the rather burdensome reporting requirements and, as I stated in my remarks, insert a section that simplifies the matter and that would have the Secretary simply evaluate whether the State is addressing the goals of the legislation and not concern himself in great detail with it.

I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, the Senator from New Hampshire, who is a member of the committee and who is a very active and helpful participant in the work of that committee, knows it is a difficult situation when we find ourselves on the floor in opposition to each other. But on this, I find that I am, and I am consistent. I will ask the Senator from New Hampshire if this same approach was offered as an amendment during our markup of the bill in the committee. Is that correct?

Mr. HUMPHREY. Yes. We are both consistent.

Mr. WILLIAMS. Mr. President, I appreciate Senator HUMPHREY's desire that States have the flexibility to determine their own programs of assistance, and in fact that is what I believe the Home Energy Assistance Act does. I also believe, however, that it is imperative that within that flexibility we build in basic accountability requirements. The amendment before us deletes those accountability requirements. The provisions of the State plan which are struck are not onerous and, in my judgment, make a great deal of sense. In S. 1724 the State is asked to describe in its State plan the State and local administrative arrangements. The State is free to use whatever State and local administering agencies it chooses. It is certainly reasonable that the State include in its plan a description of how it intends to administer the sizable program of assistance.

This is basically a substantial new grant of resources which will run to the States from the Federal Treasury.

It seems to me that we are not being unreasonable in having this provision that the State describe how this new effort, a substantial amount, will be administered.

The Humphrey amendment also removes what I consider to be one of the most important provisions of the Home Energy Assistance Act. S. 1724 requires that priority be given to households with lowest incomes, and that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income. This means that the State must devise a scale of benefits so that those with highest fuel costs and lowest incomes receive the most money.

Quite frankly, I thought there was a total consensus within our body that this is the way we hoped this measure would go forward to be helpful to those who are economically hurting most.

It is certainly the intent of this legislation that the amount of assistance be based on need. The provisions of section 8(b)(6) which this amendment strikes provides for the need element in the setting of benefit levels. In S. 1724 the State sets the benefit levels based on its allocation, its fuel types, and its eligible population. S. 1724 certainly provides flexibility to the State in setting those levels. I believe it is imperative, however, to stipulate that the benefit levels be based on need determined by the cost of energy in relation to the income of the household.

States may make payments either to the energy suppliers designated by the household or directly to the household. S. 1724 provides that when payments are made to the vendor that the State have an agreement or contract with the vendor stipulating the amount of the Federal assistance and setting a policy that energy suppliers who contract for the Federal payment will not terminate a participating household unless the household is 2 months in arrears on its share of the payment and has been given notice. The organizations representing energy suppliers, the Oil Jobbers Council, the Edison Electric Institute, and the Gas Association all testified on S. 1724 and the vendor agreements contained in the bill. In fact, the termination policy in the original S. 1724 was more stringent than the committee bill, and it was at the suggestion of the industry that the present policy was adopted.

The amendment strikes the requirement that public participation be allowed in development of the plan, and also eliminates the requirement that owners and renters be treated equitably under the plan. This provision is of great importance since approximately one half of all poor families are renters.

In the State plan the State is allowed to reserve up to 3 percent of its funds annually to deal with weather related and supply shortage emergencies. The amendment before us strikes this needed State flexibility to deal with emergencies.

The amendment also strikes the assurance that recipients of funds will be referred to weatherization programs where feasible in order to promote conservation, and eliminates a maintenance of effort provision for welfare programs, which means that a State could redirect existing welfare payments and substitute this money intended for energy assistance. Finally, the amendment strikes the portion of outreach provisions which involve existing agencies such as area agencies on aging and community action programs in identifying needy recipients.

The Humphrey amendment eliminates several very important provisions of S. 1724. The program of assistance is provided through a block grant to States and allows the State to tailor the program to its needs. I ask unanimous consent to have printed in the RECORD a letter from the National Governors Conference which supports the approach taken in S. 1724 including the State plan provisions which are necessary for accountability.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION,
November 8, 1979.

To the Members of the U.S. Senate:

I am writing to you concerning legislation to establish a low income energy assistance program which will come to the Senate floor in the near future. Although the National Governors' Association has not formulated a policy specifically on S. 1724, "Home Energy Assistance Act", the Association believes that the approach taken in S. 1724 as reported by the Committee on Labor and Human Resources (which is similar to the approach proposed by the Committee on Finance) to establish a program of low income energy assistance is a satisfactory and responsible approach.

On behalf of the Governors' Association, I testified before the Committee on Labor and Human Resources concerning the establishment of such a program. We are pleased to note that the Committee, in considering this subject, took into account the major concerns which I voiced. We believe the manner in which the Committee on Labor and Human Resources (and the Committee on Finance) would allow the federal funding for this program to be channeled through state governments is feasible and will allow each state to more sensitively take into account its own unique circumstances and needs. The Governors' Association realizes that the states must be accountable for the expenditure of federal funds within such a program, and believes that S. 1724 calls for reasonable and sufficient mechanisms to assure accountability to the citizens of each state who are both state and federal taxpayers.

We commend both committees on their work on this vital legislation, and we urge the Senate to move rapidly to approve this approach to providing desperately needed energy-related assistance to the low income population of the nation.

Sincerely yours,

JOSEPH GARRAHY,
Chairman, Committee on Human Resources.

Mr. WILLIAMS. Mr. President, I urge my colleagues to vote against this amendment.

I must say there is certainly no cynicism or partisanship on the part of the Senator from New Hampshire giving this blanket authority to a nation that has a lot more Democratic Governors than Republican Governors. Certainly, I admire his statesmanship in that regard, but notwithstanding that largess of spirit I have to oppose the amendment.

Mr. HUMPHREY. Mr. President, I will point out that while the Governor of my State belongs to the Democratic Party, I do my best to work with him. In large measure it was his communication with me which led to my working for this amendment.

I thank the Senator from New Jersey for ticking off the provisions which my amendment would strike. I think if we add up the totality of the provisions that my amendment would strike it amounts to a description of another Federal program in which the Federal Government collects money from people all across the country, and then hands it out as though it is our money. Federal money is taxpayers money, and all taxpayer funds come from the people.

I think it is unfortunate in the extreme that today whenever money is disbursed from Washington it is handed out as though it is some kind of carrot to be dangled in front of the noses of Governors, in front of the people, that it is some kind of a gift. Inevitably, it comes with all kinds of strings attached, such that we are constantly wearing away the sovereignty and the responsibility of the States; such that Federal Government is growing greater in power every year and the system of States is being worn away. This is a process which we must reverse.

I point out again that the people back in the localities, the towns, and the cities, and the counties and the States, know far, far better what kind of programs they need. We do not have to tell them how to administer these funds. They are not dishonest or stupid. They are at least as honest and intelligent as we are and, based on the record of Congress, I would have to say they are a great deal more intelligent, if not more honest. I urge my colleagues to support a block grant approach.

We talk about protecting the sovereignty of the States and cutting down on the size of the Federal Government, but when it comes to doing something we often fail.

I only point out in closing, Mr. President, with respect to the criticism that this amendment removes the requirement that the legislation be addressed chiefly to the elderly and the low income, that our distinguished colleague from Florida (Mr. CHILES) intends to address this matter in a separate amendment. In fact, he has two versions of that amendment. Anticipating mine, he has drawn up two versions, one which he will submit in the event that my amendment fails and one that he will submit in the event this amendment passes. I am a cosponsor of both of those amendments. In any case, this matter of directing the priority of the program to the elderly and low-income persons is going to be addressed before passage of the bill.

● Mr. DOLE. Mr. President, I strongly support the amendment of the Senator from New Hampshire to make the block grants under the bill more flexible.

The States are in the best position to know what kind of assistance will benefit their citizens. Certainly, with the experience we have gained through the crisis intervention program we are aware that some delivery mechanisms work very well in one State but very poorly in another. We should also recognize that Federal agencies often have their own prejudices about how to run a program, and those prejudices will be visited on the States.

If we require States to meet all kinds of conditions in accordance with HEW standards, we will not get the kind of response to individual needs we are looking for. The States should be given the flexibility to be innovative in finding solutions to the energy problems facing them, and they do not have sufficient flexibility under this bill.

In our deliberations on low income energy assistance, the Senate Finance Committee agreed that the States should be given a completely free hand to design their programs. The only real restriction on the States under our program was that the money must be spent to provide energy assistance to the poor. We even left it to the States to define the low income population which would be eligible.

The distinguished chairman of the Finance Committee, Senator LONG, and the Senator from Kansas, along with other Members of the Senate, have sponsored a major welfare reform bill which provides block grants to the States for their family welfare programs. One of the principles which we hope to establish with that legislation is the need to give the States more flexibility to design their own public assistance programs. By supporting the language in section 8 of S. 1724, we will negate that principle.

In some cases, program plans under the amendment of the Senator from New Hampshire may look no different from the program plans under the bill, but there will be States which differ markedly from HEW in their approach to low-income energy assistance. Without the amendment, HEW will have the power to withhold both approval and payments on the basis of its own bias even though the States address the issues appropriately. We should not be giving that kind of power to a Federal agency, especially when we know the various States will need to approach this problem in different ways.

I am happy to support the amendment.●

Mr. HUMPHREY. Mr. President, if parties on either side of the question have no further remarks, I am prepared for a vote. I ask for the yeas and nays if there are no further comments.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Kentucky (Mr. FORD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New York (Mr. MOYNIHAN), the Senator from Maryland (Mr. SARBANES), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER) would vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. HATCH), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

The PRESIDING OFFICER (Mr. LEVIN). Are there any other Senators wishing to vote?

The result was announced—yeas 34, nays 55, as follows:

[Rollcall Vote No. 405 Leg.]

YEAS—34

Armstrong	Durkin	Pressler
Baker	Garn	Roth
Bellmon	Goldwater	Schmitt
Boren	Hayakawa	Simpson
Boschwitz	Helms	Stevens
Byrd, Harry F., Jr.	Humphrey	Thurmond
Chafee	Jepsen	Tower
Cochran	Kassebaum	Wallop
Danforth	Lugar	Warner
Domenici	McClure	Young
Durenberger	Nunn	Zorinsky
	Packwood	

NAYS—55

Baucus	Hatfield	Pell
Bentsen	Heflin	Percy
Biden	Heinz	Proxmire
Bradley	Hollings	Pryor
Bumpers	Huddleston	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Cannon	Javits	Sasser
Chiles	Johnston	Stafford
Church	Leahy	Stennis
Cohen	Levin	Stevenson
Cranston	Long	Stewart
Culver	McGovern	Stone
DeConcini	Magnuson	Talmadge
Eagleton	Matsunaga	Tsongas
Exon	Metzenbaum	Weicker
Glenn	Morgan	Williams
Gravel	Muskie	
Hart	Nelson	

NOT VOTING—11

Bayh	Kennedy	Moynihan
Dole	Laxalt	Sarbanes
Ford	Mathias	Schweiker
Hatch	Melcher	

So Mr. HUMPHREY's amendment (No. 562) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 799

(Purpose: To exclude from the requirements of clauses (7) (C) and (D) individual fuel oil dealers and other small home energy suppliers which the State agency determines will be jeopardized by such compliance)

Mr. HUMPHREY. Mr. President, I submit an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an unprinted amendment numbered 799.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 1, after "(C)" insert "subject to such subsection (f) of this section".

On page 31, line 6, after "(D)" insert "subject to such subsection (f) of this section".

On page 36, between lines 12 and 13, insert the following:

"(f) A State agency may exempt any fuel oil dealer or other small home energy supplier from the requirements of clause (7)(C) or clause (7)(D), or both, of subsection (b) of this section if the State agency determines that compliance with clause (7)(C) or clause (7)(D), or both, will jeopardize in any way the ability of the fuel oil dealer or other small home energy supplier to conduct business.

Mr. HUMPHREY. Mr. President, this amendment would allow the State administering agency to exempt any fuel oil dealer or other small home energy supplier from certain requirements of participation in a vendor line of credit approach.

As S. 1724 now reads, if a fuel oil dealer enters into a vendor credit arrangement such that he is paid directly for providing fuel to a participant in the fuel assistance program, then, this fuel oil dealer must first give his fuel assistance customers the same credit terms he gives his regular customers, and second, he cannot terminate fuel deliveries to any fuel assistance customer without an elaborate and lengthy procedure—even when this customer's benefits are exhausted.

Mr. President, I agree that since a vendor credit arrangement would give a fuel oil dealer business he might not otherwise have, he should be required to make some accommodation. However, I do not see that a small business should have to suffer under this program. The independent fuel oil dealers in New England have been struggling just to survive. In the past several years, they have been going out of business at a rate of two per week.

My amendment would allow the State agency to exempt a fuel oil dealer from standard credit arrangements and strict termination procedures, whenever that agency determines that these requirements would jeopardize the ability of the fuel oil dealer or other small home energy supplier to conduct business. This exemption is only fair. If a fuel assistance recipient is in dire need of further assistance, it should be the State's responsibility to address this need, and not a struggling dealer's responsibility.

Mr. President, I understand that an agreement has been worked out with the floor managers of this bill. I am not entirely certain of that statement, because we were anticipating that Senator SCHWEIKER would manage the bill on this side of the aisle, and he is necessarily absent. But I understand that an agreement has been worked out.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 799, AS MODIFIED

(Purpose: To exclude from the requirements of clauses (7) (C) and (D) individual fuel oil dealers and other small home energy suppliers which the State agency determines will be jeopardized by such compliance)

Mr. HUMPHREY. Mr. President, I send to the desk a modification of my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposed an unprinted amendment No. 799, as modified.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 6, after "(D)" insert "subject to such subsection (f) of this section".

On page 36, between lines 12 and 13, insert the following:

"(f) A State agency may exempt small home energy suppliers from the requirements of (7)(D), of subsection (b) of this section if the State agency determines that compliance with clause (7)(D) will seriously jeopardize the ability of the fuel oil dealers and other small home energy suppliers to conduct such business.

Mr. HUMPHREY. Mr. President, the thrust of the amendment is to prevent fuel oil dealers who are in a marginal position today with respect to the soundness of their business from being pushed over the edge when they are not permitted to terminate customers who do not pay their bills.

I have consulted with the distinguished Senator from New York, and I believe the amendment is now acceptable to both floor managers of this legislation.

Mr. WILLIAMS. Mr. President, I certainly appreciate the problem concerning small energy vendors. It is certainly not the position of the committee to jeopardize the ability of small fuel oil dealers to do business.

I believe State exemption from the provisions in section (D) as in the amendment as modified is appropriate when it is applied to the small dealers who are marginal and are in a financial bind.

Therefore, I am happy to support the amendment, as modified, of the Senator from New Hampshire.

Mr. JAVITS. Mr. President, I have examined the amendment as originally submitted, and I am sympathetic entirely to keeping small dealers in business. But I was not sympathetic to allowing them to discriminate among customers as to price, credit terms, et cetera.

Of course, subject to the usual business definition if the service is different or the quality is different, et cetera, if there is a legitimate difference, then it is uniform for everyone; it is the same difference.

So, Senator HUMPHREY very kindly agreed to take that out of it. Now what is left, it seems to me, is perfectly proper, to wit, that insofar as a small dealer who has problems having to give notice where his bills have not been paid, et cetera, or have a hearing, a State agency may relieve him of that.

I think that is an entirely appropriate provision and the amendment, as now modified, is acceptable to me.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New Hampshire.

The amendment (UP No. 799), as modified was agreed to.

Mr. HUMPHREY. Mr. President, I thank Senator JAVITS and Senator WILLIAMS for constructive assistance on that amendment.

UP AMENDMENT NO. 800

(Purpose: To modify State assurances with respect to eligibility in the State plan)

Mr. HUMPHREY. Mr. President, I send to the desk an unprinted amendment, which is my final one on this bill, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an unprinted amendment numbered 800.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, strike out lines 9 through 12 and insert in lieu thereof the following:

(21) provide assurances that the state will not establish any standards of eligibility under this Act based on assets.

Mr. HUMPHREY. Mr. President, this amendment would strike the provision in S. 1724 which prohibits the States from instituting eligibility requirements that are stricter than the Federal Government's requirements. In place of this provision would be added the following sentence:

Provide assurances that the State will not establish any standards of eligibility under this Act based on assets.

Mr. President, prohibiting the assets test is necessary primarily to protect the homes of senior citizens. No one should have to sell his house to be eligible for the assistance necessary to heat it. A house is about all many senior citizens have in this country.

On the other hand, the States should be given some flexibility to target eligibility. The fact is that the money available for this program is not likely to be sufficient for substantial grants to be given to every household in America with an income of less than 100 percent of BLS. The States should be able to restrict a limited amount of money to those people who really need it. Current language would compel the States to supply at least some assistance to anyone who meets requirements that are considerably more generous than those in this year's program.

We should keep in mind that a family's cash income does not necessarily determine its standard of living. Some

families still grow their own food and cut their own wood. At the present time, there are many woodpiles in the State of New Hampshire. But there are also many people facing dire need, and the benefits of these people should not be reduced to provide eligibility to others who have sufficient wood for the winter.

Once again, Mr. President, the thrust of this amendment is to give the States increased latitude, increased flexibility, and to channel these limited funds to those persons who truly need them, not strictly on the basis of cash income, but on the basis of real need.

Once again, Mr. President, we have an agreement, I believe, worked out with Senator SCHWEIKER, but he is not able to be here. I wonder if I might have some indication from the Senator?

Mr. JAVITS. Mr. President, I would like to take a look at it. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION OF ENROLLMENT OF H.R. 4930

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate, House Concurrent Resolution 209.

The PRESIDING OFFICER. The Chair lays before the Senate, House Concurrent Resolution 209, which the clerk wil state by title.

The legislative clerk read as follows:

House Concurrent Resolution No. 209, a resolution authorizing the Clerk of the House of Representatives to correct the enrollment of the bill H.R. 4930.

Mr. ROBERT C. BYRD. Mr. President, House Concurrent Resolution 209 corrects a clerical error in the House-Senate conference agreement on Senate amendment 67 to H.R. 4930, making appropriations for the Department of the Interior and related agencies for the 1980 fiscal year. The amount in question designates that portion of the appropriation to the Forest Service for construction and land acquisition that is earmarked for construction of roads and trails. As agreed to by the House and Senate, the figure in amendment No. 67 is $401,242,000. The correct amount agreed to by the conferees on the Interior appropriations bill is $392,565,000.

The number correction involved here does not affect the amount of the overall appropriation for Forest Service construction and land acquisition, only an amount designated within that appropriation.

Mr. President, I hope the Senate will agree to the resolution and concur in the correction to amendment No. 67 I have just discussed.

Mr. HUMPHREY. Mr. President, this has been cleared with the minority side.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOME ENERGY ASSISTANCE ACT

The Senate continued with the consideration of S. 1724.

AMENDMENT NO. 581

(Purpose: To assure that State public assistance payments increases to be applied to increased energy costs will be disregarded in the computation of food stamp eligibility)

Mr. PELL. Mr. President, I call up my amendment No. 581 to S. 1724.

The PRESIDING OFFICER. There is an amendment pending at this time.

Mr. PELL. Oh, I am sorry; my fault.

Mr. WILLIAMS. Mr. President, I ask unanimous consent to lay that amendment aside temporarily and take up the amendment of the Senator from Rhode Island and that of the Senator from Florida, while the Humphrey amendment is being discussed.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object, on the basis that when my amendment is modified we not lose our place, but that it will be the next amendment to come up, I would have no objection.

The PRESIDING OFFICER. The question on agreeing to the Senator's amendment will recur as soon as this amendment is disposed of.

Mr. HUMPHREY. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I thank my colleague. I call up my amendment No. 581, and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL), for himself, Mr. CHAFEE, Mr. HEINZ, Mr. LEAHY, Mr. RANDOLPH, Mr. RIEGLE, Mr. STAFFORD, and Mr. WEICKER, proposes an amendment numbered 581:

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, line 23, insert "(1)" after "(c)".

On page 39, between lines 3 and 4, insert the following new paragraph:

(2) Section 5(d) of the Food Stamp Act of 1977 is amended by striking out "and (10)" and inserting in lieu thereof the following: "(10) any income attributable to an increase in State public assistance grants which is intended primarily to meet the increased cost of home energy, and (11)".

Mr. PELL. Mr. President, this amendment, which I offer on behalf of myself and half a dozen other Senators, would insure that increases in State public assistance payments specifically earmarked for energy-related expenses will not be offset by automatic cuts in food stamp benefits.

Because it is the middle of November, and the Federal Government is only now acting on a proposal to provide energy assistance to low- and moderate-income individuals, some States have increased their public assistance payments to help low-income beneficiaries meet the dramatic increase in home heating costs that has occurred over the past year. In my own State of Rhode Island, for example, energy costs have increased over 70 percent during this period, and the State is increasing welfare payments to help meet those costs.

Unfortunately, these increases in State public assistance payments are making many low-income families and individuals ineligible for the food stamp benefits they have been receiving. For others, this monthly energy supplement decreases their food stamp allotment and, paradoxically, larger families who necessarily spend more to heat their homes lose a greater proportion of assistance. For these families the choice between food and fuel will become a horrible reality.

To prevent this unintended hardship, I am offering this amendment which would hold current food stamp beneficiaries harmless, so that what has been designed as a mechanism to lessen the economic burden for one of the necessities of life will not threaten their eligibility for other essential programs.

This amendment would not require any additional Federal spending, since we are not increasing program eligibility. The amendment, however, would enable the elderly and low-income individuals who receive energy assistance from the State to maintain their current food stamp allotment.

Without this amendment, we will be robbing Peter to pay Paul. What the State government giveth, the Federal Government will taketh away.

I believe this amendment is essential to permit Federal and State Governments to work in tandem instead of at opposite ends. I do not believe it is controversial because it is a hold-harmless provision, and I hope the chairman will accept it.

Mr. WILLIAMS. Mr. President, I believe that the need for the amendment of the Senator from Rhode Island is manifest, and I certainly support it.

The amendment that the distinguished Senator from Rhode Island offers would amend the Food Stamp Act of 1977 to provide that increases in State public assistance payments specifically earmarked for energy-related expenses would not be considered income for the purpose of determining eligibility for food stamps.

I share my colleague from Rhode Island's deep and abiding concern for the health and welfare of the many families and individuals that will be facing severe hardship this winter and beyond due to the increased cost of home energy. My colleagues are all familiar with the degree to which the price of home-heating oil has risen within the past year. Predictions on the future costs of oil and other types of fuel look grim.

Data submitted to the committee indicates that many low-income households

will be paying in excess of 80 percent of their income on home energy and shelter costs alone. This leaves but a paltry sum of money available for other basic necessities such as food, medical care, et cetera for these households. It seems to me that we should be looking to ways in which we might ease the hardship that these households face, not exacerbate the problem.

The Pell amendment is specifically tailored to ease the economic burden on elderly and on other food stamp recipients, who may be in receipt of an incremental increase in the State's public assistance payment, and hold them harmless at the current food stamp allotment. This amendment seems reasonable and consistent with the basic thrust of this bill, and I hope my colleagues will accept it.

I might also call to my colleagues' attention that similar language was incorporated in the Senate Appropriations Committee Report on fiscal year 1980 appropriations for the Departments of Labor and Health, Education, and Welfare relating to the Community Services Administration's energy crisis intervention program. The report reads:

> Payments made under this program (E.C.I.P.) are not to be considered as income for purposes of determining eligibility or benefits under any income maintenance program including, but not limited to, public assistance, veterans benefits, food stamps, or supplemental security income.

The report continues—

> It is also the intent of the committee that any assistance to the poor provided under State and local authority will not be reduced.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 581) was agreed to.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I ask unanimous consent, with the same arrangement for laying aside the Humphrey amendment, that the Senator from Florida (Mr. CHILES) be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Jersey? Without objection, it is so ordered. The Senator from Florida is recognized.

UP AMENDMENT NO. 801

(Purpose: To provide priority for home energy assistance to households with elderly individuals)

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Florida (Mr. CHILES), for himself, Mr. DOMENICI, Mr. CHURCH, Mr. PERCY, Mr. GLENN, Mr. HEINZ, Mr. MELCHER, Mrs. KASSEBAUM, Mr. PRYOR, Mr. COHEN, Mr. BRADLEY, Mr. BURDICK, Mr. EAGLETON, Mr. HUMPHREY, Mr. STONE, and Mr. PACKWOOD, proposes an unprinted amendment numbered 801:

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 29, line 22, insert "(A)" before "that"
>
> On page 29, line 23, insert after "and" the following: "to eligible households having at least one elderly individual and (B)".

Mr. CHILES. Mr. President, the amendment I have called up would provide that States shall take steps to assure that households with an elderly member be given priority for receiving energy assistance.

Mr. President, my amendment, which is sponsored by the entire Senate Committee on Aging, Mr. DOMENICI, Mr. CHURCH, Mr. PERCY, Mr. GLENN, Mr. HEINZ, Mr. MELCHER, Mrs. KASSEBAUM, Mr. PRYOR, Mr. COHEN, Mr. BRADLEY, Mr. BURDICK, and Mr. EAGLETON, chairman of the Subcommittee on Aging; and Mr. HUMPHREY, Mr. STONE, and Mr. PACKWOOD will guarantee that the current crisis intervention program's priority focus on the elderly will be continued in the overall new energy assistance program. The new Community Services Administration's (CSA) regulations for the Energy Crisis Assistance Program require that "highest priority should be placed on serving the elderly." The regulations specify that this can be implemented by certifying the elderly by mail, providing transportation, utilizing senior centers for the provision of services and even making visits to homes for certification purposes if the elderly person is homebound.

Mr. President, this emphasis was placed in the current program by the Congress in both the authorizing legislation and appropriations statute for 1980. The efforts taken by State and local program administrators to serve the elderly should not be reverted.

The Committee on Aging has held a series of hearings over the last few years on "The Impact of Rising Energy Costs on Older Americans." Officials from the Department of Energy, CSA, and HEW all testified to the fact that elderly persons pay a higher percentage of their income on energy costs than other age groups. Last winter, it was estimated that elderly paid an average of 30 percent of their income on utility bills. This winter, the projections are as high as 50 percent. This is often 50 percent of a social security, SSI, or pension check which does not leave much for food, shelter, and medical expenses.

In addition, elderly people are far more susceptible to weather-related health problems. Experts from the National Institutes of Health have told our committee that "the normal physiologic mechanisms that compensate for variations of temperature in our environment are generally least efficient in the elderly and are sometimes so weak that they allow body temperatures in older persons to fall or rise to dangerous levels with even modest changes in air temperature. These changes in body temperature can produce disease, permanent damage to the body, or death."

According to recent news stories, hospitals across the country are gearing up to face a larger number of persons—especially older persons—who will suffer from hypothermia this winter. Hypothermia, a severe and progressive fall of body temperature, is now ranked sixth among the leading causes of death in the United States among older persons, according to medical experts at Harvard Medical School.

Mr. President, the Fuel and Oil Marketing Advisory Committee to the Department of Energy has estimated that approximately 44 percent of the households eligible for energy assistance will be headed by a person 60 years of age or older. Many of these persons have already written to the Committee on Aging to express their concern about energy prices and tell us how they are attempting to conserve and still remain healthy. Many report that they live in one room of their homes, closing off the remainder to avoid heating that area. Others tell about shoving rolls of newspapers into cracks to cut down on drafts. Several mention that they are cutting down on washing clothes and taking baths. One innovative elderly woman, told how she is using her husband's nightshirts to cover the windows because they cannot afford storm windows. Several stated that they have been forced to burn fences and even pieces of furniture to keep warm.

Mr. President, many of our elderly people are not able to exercise to keep warm, chop wood, or insulate their homes like the rest of us. They need assistance and they deserve it. One woman wrote asking for help and made an emotional plea that described the dire situation that faces many of our elderly at this very moment. She said, "Senator, we've lived through the Depression, World War I, and World War II and were grateful to survive. And, now this! We need help!"

This amendment does not change the focus of the energy assistance program from serving those households with the lowest incomes and highest energy bills. It simply states that among these households, States shall give priority to serving those households with elderly members. States are taking such actions under the current program and should continue to do so.

Finally, I want to commend Senator WILLIAMS and the Labor and Human Resources Committee for their tireless efforts which went into drafting this bill. The cooperation that Senator WILLIAMS and the committee staff extended to the Committee on Aging is genuinely appreciated.

Mr. President, I understand that perhaps the Senator from California (Mr. CRANSTON) has a proposal to amend the amendment. I yield to the Senator from California.

UP AMENDMENT NO. 802

Mr. CRANSTON. Mr. President, I am mindful of the special need my colleague from Florida seeks to address by his amendment. Although the recent increases in the costs of energy harm many individuals, there is no doubt that certain groups of individuals are injured tremendously—too often irreparably. I congratulate the Senator from Florida for his sensitivity toward these special groups, as demonstrated by this amendment, which will require States to assure

that in the provision of services under this act special priority will be given not only to the poorest eligible population, but also to those eligible households where an elderly person resides.

There is, I believe, another group of individuals which merits priority assistance to meet the rising costs of energy. The group about which I speak consists of severely handicapped individuals. Severely handicapped individuals are subject to the same hardships that many elderly individuals suffer by virtue of the fact that most of them are living on small, fixed incomes. Add to that problem the disadvantages of inaccessibility to programs and services and you have a group of persons with few options for self-help.

Mr. President, I submit that elderly and severely disabled individuals are those most in need of the assistance we are authorizing today. I suggest an amendment to the Chiles amendment which would prioritize assistance not only to eligible households having at least one elderly individual, but also to eligible households with at least one individual with a severe handicap.

Thus, States would be required to assure that priority is given to "households with lowest incomes and to eligible households having at least one elderly individual or one individual with a severe handicap as defined in section 7(13) of the Rehabilitation Act of 1973, as amended.

The definition in question is:

The term "severe handicap" means the disability which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, renal failure, respiratory or pulmonary dysfunction, and any other disability specified by the secretary in regulations he shall prescribe. (29 U.S.C. 706(13)).

I, therefore, send to the desk, and I understand this is acceptable to the Senator from Florida, an amendment that would serve that purpose.

Mr. CHILES. Mr. President, I am willing to accept the amendment as a modification of my amendment, and I compliment the Senator from California. I think it is a group most deserving of priority.

Mr. CRANSTON. I thank the Senator very much. I ask unanimous consent that the reading of the amendment be dispensed with.

The amendment is as follows:

Amend Chiles amendment as follows:

On line 3, insert "or one individual with a severe handicap as defined in section 7(13) of the Rehabilitation Act of 1973, as amended" after "individual".

The PRESIDING OFFICER. The Senator from Florida has a right to modify his amendment, and it is so modified.

Mr. CRANSTON. I thank the Senator very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida, as modified.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, S. 1724, as reported by the committee, requires the State, in the State plan, to assure that priority in the provision of home energy assistance will be given to households with the lowest incomes. The Chiles amendment as I understand it, would broaden that priority category to include "eligible households having at least one elderly individual."

The amendment, as further broadened by the amendment offered to the amendment by the Senator from California, would include households with any severely disabled individual.

I think that I can agree with this amendment. As I understand, the amendment would not remove or supplant the priority placement of assistance to households with the lowest incomes and the highest energy costs in relation to income, regardless of the age of the occupants of the household.

If this amendment does not change the act's priorities as stated, it would impress me that the categories here included would be recognized as worthy, and I could accept the amendment.

I know the Senator from New York, who is managing the bill with this Senator, might not have that view. But that is our view.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum. I would like to read the amendment.

Mr. WILLIAMS. Before the quorum call, could I ask whether the amendments do supplant or replace the priorities in the bill?

Mr. JAVITS. I withhold the request for the quorum call.

Mr. CHILES. Mr. President, what the amendment does is say that among those who are the most economically deprived, the elderly among them will receive a priority.

Mr. WILLIAMS. And with the addition of the amendment of the Senator from California, the same would be true?

Mr. CHILES. And with the addition of the handicapped.

Mr. JAVITS. Mr. President, I withhold the request for the quorum call.

I ask the Senator from Florida to answer this question for me: What would this amendment do for a family or a household unit that has one elderly person or one person with a severe handicap? What will the priority mean to them? Because, if we keep the remainder of the provision, to wit, that the highest level of assistance is provided to households with the lowest income and the highest energy costs in relations to income——

Mr. CHILES. It just says that within that pool, that pool of those you have already set a priority for, those with the lowest income and the highest energy cost, in that pool, the elderly or those households that have one elderly person, and/or severely handicapped now, will be given first attention.

Mr. JAVITS. In respect of highest level being provided to such households, what I am trying to get at—I am not arguing the amendment but I am trying to understand it—is, we leave in the provision that the highest level of assistance goes to households of the lowest incomes and the highest energy costs in relation to income. Do I understand the explanation to be, and I may be wrong but I am trying to determine if I am correct, that if there is a household which is of the lowest income and also has either an elderly person or a person with a severe handicap, that household, being within the lowest income category, will get a priority to one that does not have an elderly person or does not have a severely handicapped. That is what it means?

Mr. CHILES. That is correct.

Mr. JAVITS. But it, too, would have to qualify as the lowest income?

Mr. CHILES. Yes. It would have to first be in the pool which has been created, and then in that pool it would have priority.

Mr. JAVITS. I would rather take the amendment on the Senator's explanation than the language, which I do not think is clear. The explanation is very clear to me. I am perfectly happy to take the amendment. If we have to change the language, we will tell the Senator why.

Mr. CHILES. Very well.

Mr. JAVITS. It is acceptable to me.

ELDERLY PRIORITY IN ENERGY ASSISTANCE

● Mr. CHURCH. Mr. President, I urge adoption of Senior CHILES' amendment which would require the States to give priority attention to serving the needs of the elderly under the energy assistance program.

As the former chairman of the Senate Committee on Aging and now its ranking majority member, I am very familiar with the particular energy needs of older persons. Over the past few years, many elderly have watched their utility bills increase by 200 percent. Such increases combined with rising costs in food, shelter, and medical expenses have forced numerous seniors to make choices between such necessities.

Mr. President, millions of our elderly live on incomes from social security, SSI, and other pensions. Even though some of these programs are indexed with the Consumer Price Index, the increases have not come close to the unprecedented increases in energy costs. For example, in the last 5 years, social security benefits have increased approximately 43 percent and SSI have risen 24 percent. During the same time period, all energy sources have risen over 150 percent with fuel prices jumping nearly 200 percent. Therefore, many elderly's cost-of-living increases in their limited incomes have not even begun to combat energy price increases, let alone rising costs in medical, food, and other necessities.

I am pleased to join the entire Senate Committee on Aging and Senator EAGLETON, chairman of the Subcommittee on Aging, to insure that elderly receive adequate assistance to help in combating these rising prices. The committee has thoroughly documented the special

energy needs of the elderly through hearings and studies. This amendment is the committee's effort to provide for an effective method to assist older Americans in living better lives. I urge my colleagues to support this important amendment.●

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Florida.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 800, AS MODIFIED

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment, as modified, is as follows:

On page 35, strike out lines 9 through 12 and insert in lieu thereof the following:

(21) provide assurances that the State will not establish any standards of eligibility under this Act based on an assets test which counts cars, household and personal belongings or primary residences.

Mr. HUMPHREY. Mr. President, I have modified the amendment so that it is acceptable, I believe, to the floor managers of the bill.

Mr. WILLIAMS. This amendment basically goes to a matter that we had defined in the original provision in the bill. It goes to an apprehension that there might be an assets test imposed at the State level. We wanted to prohibit that. This amendment defines the prohibition on that basis and I certainly support it.

The amendment proposed by my colleague from New Hampshire strikes a provision which prohibits States from making any more restrictive eligibility tests than contained in the bill.

Senator HUMPHREY's amendment replaces this with language prohibiting States from instituting an assets test for determining eligibility.

As the committee included the original language in order to prevent States from imposing an assets test, the Humphrey amendment clarifies my intent in the original S. 1724 and I support this change.

Mr. JAVITS. Mr. President, the Senator from New Hampshire has very kindly cooperated with us in that the question of assets is indeterminate. You might have a scandal with somebody having a lot of assets but not much income. We thought we had better define the assets we were talking about. As defined it is the same test used for food stamps and the amendment is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New Hampshire.

The amendment, (UP No. 800) as modified, was agreed to.

UP AMENDMENT NO. 803

(Purpose: To provide that a State plan may provide for tax credits)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 803.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, between lines 12 and 13, insert the following:

(f) A State may use funds available under this Act for the purpose of providing credits against State tax to energy suppliers who supply such energy at reduced rates to lower income households, but such credit may not exceed the amount of the loss of revenue to such supplier on account of such reduced rate. Any certifications for such tax credits shall be made by the State, but such State may utilize Federal data available to such State with respect to recipients of supplemental security income benefits.

Mr. HEINZ. Mr. President, I support the direction the bill takes in permitting States to choose the type of fuel assistance program they wish to institute. My amendment merely suggests yet another option for States to consider as they develop plans to meet the requirements of this bill. That option is a program of State tax credits to utilities and sellers of oil, coal, and wood for home heating who reduce the cost of fuel to low-income households.

Most of my colleagues in the Senate recognize the need for providing disadvantaged Americans with immediate relief from skyrocketing fuel bills, but many of us are in disagreement over the best approach. As a member of the Senate Committee on Finance, I took part in protracted debates over the merits and shortcomings of various low-income fuel assistance proposals. I am convinced from these deliberations that states should play a significant role in the creation of comprehensive fuel assistance programs for those with low incomes. I believe that the best way to do this is to allow states to choose and tailor the program which meets their needs.

The option offered the States by my amendment has several decided advantages which should be considered as plans are developed. Tax credits to suppliers will target funds for fuel assistance by reducing the cost of fuel on the front end to eligible households. This has the advantage of reducing the effect of increased fuel costs and of permitting low-income households to meet their fuel payments within their limited resources.

The tax credit option would be administratively simple. Because eligibility is determined by the State certification, the program would rely on existing records and information and would not necessitate a separate verification procedure. Because reimbursement is through a tax credit, payment to suppliers is guaranteed.

While many have expressed some concern about the cash flow problems experienced by some small jobbers around the Nation, we are being assured that a tax credit filed for quarterly is a far better deal than waiting from 6 to 12 months for low-income families to pay their high fuel bills. Nevertheless, I would expect reimbursement under this option to be carried out in a timely manner, acceptable to the Secretary.

Mr. President, I believe we must provide the States with maximum flexibility if we are to achieve our goal of meeting the needs of low-income households during the winter months. Certainly the addition of a State tax credit as one more option for the States to use would be a step in furtherance of this goal.

Mr. President, we are all anxious to assist low-income Americans offset the costs of home heating through prompt legislative action. I urge my colleagues to give prompt and favorable consideration to the amendment I am now offering so that the States may devise their State plans in a way they determine to be most appropriate for those low-income persons they must serve.

The purpose of this amendment, Mr. President, is really very simple. The bill before us, S. 1724, permits certain options to the States in terms of bloc grants, in terms of the way they administer those bloc grants. They may, under the terms of this bill, for example, elect to have a vendor payment mechanism to achieve the goal of providing timely and effective assistance to low-income people with the problems we expect them to have on their heating bills. This amendment simply adds one more State option which is to allow virtually the same kind of help to be realized through the use of a State tax credit if the State so elects.

I hope the managers of the bill will take a look at this amendment.

It permits us to achieve in S. 1724 virtually what we had agreed to in the Finance Committee on this. We have discussed it at the staff level. My understanding is there is no material objection, but if there are any objections on behalf of the committee, by Senator JAVITS or Senator WILLIAMS, I would certainly like to hear them.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I have considered this amendment. What it is is an alternative plan for a State in which the State can use credits against taxes levied upon the energy supplier in order to bring about a reduction in cost to the eligible household as if it were another form of vendor payment.

Mr. HEINZ. The Senator from New York is entirely correct.

Mr. JAVITS. I certainly think we ought to allow the State that latitude, but I do think we ought to take one precaution. That is that the mechanics do not hold up deliveries. If the Senator would, I would like to add the following, which I will also send to the desk: "Provided, that timely delivery of benefits to eligible households and suppliers shall not be impeded by the implementation of such plan."

Mr. HEINZ. Mr. President, I have examined the language of the Senator from New York. I find it totally consistent with my amendment. I ask unanimous consent that that language be added.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. HEINZ. I so modify my amendment.

The amendment, as modified, is as follows:

On page 36, between lines 12 and 13, insert the following:

(f) A State may use funds available under this Act for the purpose of providing credits against State tax to energy suppliers who supply such energy at reduced rates to lower income households, but such credit may not exceed the amount of the loss of revenue to such supplier on account of such reduced rate. Any certifications for such tax credits shall be made by the State, but such State may utilize Federal data available to such State with respect to recipients of supplemental security income benefits: *Provided*, That timely delivery of benefits to eligible households and suppliers shall not be impeded by the implementation of such plan.

Mr. WILLIAMS. I appreciate the Senator from Pennsylvania modifying his amendment at the suggestion of the Senator from New York.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Pennsylvania.

The amendment, as modified, was agreed to.

Mr. HEINZ. Mr. President, let me thank my distinguished colleague from New Jersey (Mr. WILLIAMS) and my equally distinguished colleague from New York (Mr. JAVITS) for their concern about the people this bill will help, and for their help in perfecting this legislation. I also thank the Senator from Louisiana, the chairman of the Finance Committee, for his assistance in perfecting this language.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

UP AMENDMENT NO. 804

(Purpose: To specify that energy stamps may be included in State plans for home energy assistance)

Mr. WEICKER. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 804:

On page 28, line 10, after the word "payments" and before the phrase "made in accordance with", insert the following: "(which, without limitation, may be made in the form of a duly issued coupon, stamp or certificate)".

Mr. WEICKER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I wish to state the purpose of the amendment. Specifically, it is that if a State so chooses, it may implement a fuel stamp program as the mechanism for distributing benefits to eligible households.

It is my understanding that the pending legislation would allow each State the flexibility to administer an energy assistance plan as they see fit pursuant to the guidelines set forth in this act. Benefits to eligible households would be made either to the home energy suppliers or to the households themselves.

It is the purpose of my amendment merely to clarify that payment to eligible households may be made in the form of a fuel stamp or coupon if the State decides this vehicle is best suited to its administrative needs.

Mr. President, I have long advocated a fuel assistance program for our Nation's poor and elderly. As the record indicates, I introduced my own version of an energy stamp program back in 1977.

Since then energy prices have continued to soar and the poor and elderly have continued to pay a disproportionate amount of their income for their basic energy needs.

Government response to the energy needs of its poor and elderly citizens has long been overdue. I commend the distinguished Senator from New Jersey and his colleagues on the Labor and Human Resources Committee on their efforts to move forward today with this comprehensive residential energy assistance program.

Mr. President, it was a year ago or more, that I stood on the floor of the Senate and offered as an amendment to the energy bill of 1978 an energy stamp program. We were then, as we are now, in the midst of a rationing by price scheme which was, and still is, devastating to the poor of this country—those on fixed incomes, the elderly, and the lower middle income groups.

I very thoroughly disagree that conservation should be achieved by rationing by price. But that disagreement has gone the way of any other disagreement that I have with the energy policies of this country. It is lost.

The fact is that we do have rationing by price. That is the scheme, and I see nothing that will change that in the future. The advocacy of a tax on gasoline is further rationing by price. The price of oil continues to go up, and that is rationing by price. If there is to be conservation short of other types of conservation which I have advocated (whether it is 6 days a week for the automobile, not using the credit card for the purchase of gasoline, or coupon rationing) it is to be rationing by price. Because of this, it is best to take care of the needs of the most disadvantaged elements in our society.

Back in 1978, I proposed a fuel stamp program. The chairman of the Finance Committee cut that down to being a pilot program, and that was the amendment that was taken to conference and lost in conference.

Now, in this year, 1979, along with Senator EAGLETON and Senator DURKIN, we scrambled around to try to find how we could best help these disadvantaged elements of our society before the winter season was upon us.

We had no program in place such as the one advocated a year earlier to help these people. Indeed, the price of energy was far greater than it was at the time that amendment was adopted in the Senate and dropped in the conference.

The best we could come up with was the crisis intervention program. Initially, a $22 million effort in the Appropriations Committee, but thanks to Senators EAGLETON and DURKIN, we raised the figure to $250 million as a compromise and then further raised it to $1.6 billion at the urging of the Administration. Now that is embodied in the legislation before us. But, again, no type of permanent mechanism.

I again point out to my colleagues here this afternoon that, sooner or later, we must take care of the basic necessities of life. We have done so of food with food stamps, and we must do it now with energy stamps. We can not continue to scramble around in a makeshift mechanism to take care of the people that have been hurt the most by this crisis.

All I have done in this amendment is permit the States to have an energy stamp program. It is strictly permissive and intended to be utilized administratively in its present form in the same way as the food stamp program. It does not mandate anything, only suggests that this may be a good way for them to handle it.

Indeed, if that is what they want, fine. They are the ones to go ahead and make the decision.

But I predict today, that whatever program we enact, and I believe this legislation, if I am not mistaken, goes for 3 years—appropriation for 3 years and authorization for 3 years—this problem will still be with us well past the year 2000.

I am not using this as the vehicle to bring about Federal legislation of energy stamp program. I am using it as the occasion to remind Senators that we have not settled this problem.

As the price of energy soars, and it will, and if conservation is achieved by rationing by price, we have got to have a permanent mechanism in place to take care of those citizens upon whom conservation is forced by virtue of their economic status.

I hope the managers of the bill, the majority and minority, will accept this very minimal suggestion. It merely keeps alive an idea. That is all. It does not interfere with our legislation. It keeps alive an idea at the State level and at the option of the States. An idea, believe me, that should be implemented at the Federal level.

The fact is that the way the legislation is written now, what I am proposing here would not interfere one iota. It merely would include this as another option for the States to use.

I will be glad to yield the floor and answer any questions that anyone might have.

Mr. WILLIAMS. Mr. President, I say to my good friend the distinguished Senator from Connecticut that the approach of using fuel stamps as the means of meeting our objective here—and stamps is the way of helping families get their fuel in the winter time—was discussed in terms of fuel stamps as the method of payment. We received a great deal of testimony from all quarters that, as the method of payment, it received no support.

The National Governors' Association, the Fuel Oil Marketing Advisory Committee, the Department of Energy, the National Consumer Law Center and many others cited problems with a fuel stamp program. They cited problems of administrative inefficiencies accountability problems, excessive administrative costs.

From consumers, we also got a reluctance to have the assistance program proceed on a stamp basis. A woman from Maine came here to testify and indicated what I am sure is on the minds of many: that somehow there is a stigma attached to stamps. She was eligible for food stamps and was resisting going through the processes of getting food stamps. She associated fuel energy stamps with the same approach.

So what we have remaining in the bill is really a State option. We liked, of course—and we talk quite a bit about it in the report—the vendor line of credit. But the bill gives options: Vendor line of credit, prepayment of bills that way; or, where appropriate, the payments can be made right to the households.

However, nothing in this bill would shut out a State from developing a voucher program.

The amendment offered by the distinguished Senator from Connecticut impresses me as more specific but within the spirit and opportunities that already are in the bill. So I find nothing objectionable about it.

Later on, if States take this option, we might find that they can make it effective and efficient, and it may be the best way.

So far as this Senator is concerned, I am agreeable to have this in the bill. I have not discussed it with my colleague, the distinguished minority floor manager of the debate on this bill.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. The Senator has explained it quite properly. As we did not bar it, it is an option.

The only thing that would worry me is where it appears—that is, in the preamble—to provide for a State program for furnishing home energy assistance to the eligible households through payments made in accordance with the provisions of the plan. What I would like the record to show is that this is another kind of plan and could have appeared in the list of qualifications of plans as well as here. In other words, the fact that it appears there does not give it any higher or better standing than if it appeared in the details of this subsection 3.

Mr. WEICKER. For the record, I certainly concur with the distinguished Senator from New York and the distinguished Senator from New Jersey.

That being the case, Mr. President, I ask unanimous consent that the order for the yeas and nays on my amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUEL OIL DEALERS' CASH FLOW PROBLEM

Mr. DOLE. Mr. President, 2 months ago I introduced legislation designed to alleviate the serious cash flow problem faced by fuel oil dealers in this country which is a result of the significantly increased cost of heating oil. The dealers are having to pay more for their product in a shorter period of time on the one hand, while on the other hand their customers are having a harder time paying their bills in a timely manner. The fuel oil dealers are getting squeezed in the middle.

This problem is tied directly to the issues we are discussing here today. If we do not take steps to assure the financial stability of the fuel oil dealers, the impact on consumers—and especially low-income households—will be much harsher than we realize.

It would be ironic and cruel to vote cash assistance to help low-income individuals to pay their heating bills and then to be the cause of their not having access to heating oil because we ignored the problems of fuel oil suppliers. For that reason, I had intended to offer, as an amendment to the Home Energy Assistance Act, my bill to provide SBA guaranteed loans to fuel oil dealers.

Unfortunately, a task force of fuel oil dealers, accountants, bankers, Small Business Administration officials and other interested parties, which has been working on this issue for several months, will not complete action on their recommendations until tomorrow. Therefore, I will wait and offer my amendment during debate on the windfall profits tax bill. I did feel it was important to raise the issue now, however, to impress on my colleagues the urgency of the matter and to ask for their support in my efforts at that time.

● Mr. METZENBAUM. Mr. President, I commend the distinguished chairman of the Labor and Human Resources Committee for his outstanding leadership in bringing this urgently needed legislation to the floor.

For the millions of poor and elderly people in this country, few other pieces of legislation are as important as we approach the winter heating months because without this legislation, the most vulnerable members of our society will be faced with the awful choice between heating their homes and feeding themselves and their families.

All Americans have felt the severe pinch as energy prices have escalated but the costs of fuel prices and their impact on the elderly and poor are especially devastating

I have repeatedly argued that the increase in energy prices that is at the heart of this administration's policy is unnecessary. It brings us little or no new production. And it imposes the greatest burdens on those in our country who can least afford to bear them.

Between 1972 and 1978 fuel oil and coal prices increased by over 150 percent.

Within the past year, fuel oil—which heats a majority of homes in New England and is a major fuel component throughout the northeast and midwest—has risen in price by a full 75 percent. In some parts of New England, consumers have seen their home heat bills literally double in just the past year.

In my own State of Ohio, natural gas consumers face a 39 percent increase over last year's heating costs. And by 1985, as deregulation takes full effect, natural gas prices will at least double. Yet the natural gas association has released a report calling for even higher prices to avoid another round of natural gas shortages in the mid-1980's.

For many Americans, one answer to rising prices is to add storm windows and insulation or to take other steps to conserve on their use of fuel.

But what are the poor and elderly able to do?

According to a Department of Energy study, the poor have already cut their use of fuel to the bare minimum, even to the point of jeopardizing the health of their families. The poor have no discretionary money to install insulation and other conservation devices. And certainly, they do not have the income levels needed to take advantage of tax credits.

A recent report issued by the National Center for Economic Alternatives showed the tremendously disproportionate impact on the poor of higher prices for all necessities, but especially energy.

In the past quarter, for example, the CPI rose by 6.6 percent on an annual basis. But necessity prices—that is, the cost of food, housing, medical care and especially energy—increased at an astronomical rate of 17.6 percent. Even that camouflages the impact of energy on the poor, because energy alone increased at a rate of more than 50 percent.

Mr. President, I had an opportunity to hear testimony firsthand this summer when I conducted a Senate Budget Committee hearing in Toledo. I must say it was a very moving experience for me. It showed me how frustrated men and women of all ages are becoming as they work hard, saving to buy a home or to send their children to college, only to find that their savings have been eaten up in 1 year by higher fuel bills and other costs. Many elderly people are sim-

ply not eating as they should, and many others are feeling neglected and left out of the society they worked so hard to create.

This legislation will not answer all of the problems caused by the great increase in energy prices, but it is certainly a step in the right direction—a step that is long overdue. This bill provides assistance to low-income families who cannot meet the higher fuel bills that have increased, despite their best efforts to conserve. In addition, it encourages States to provide additional assistance to the elderly, handicapped and poor. My own State of Ohio has taken a lead in this area by providing $83 million for this purpose, and I hope other States will soon establish their own State funds for such assistance.

Again, I commend the chairman for his excellent work in bringing this legislation to the floor in time to meet the urgent needs of the poor and elderly during the winter months. I believe that this legislation must be in place as soon as possible, and I urge my colleagues from both sides of the aisle to support it.●

● Mr. RIEGLE. Mr. President, Americans should not have to choose between eating and staying warm. For the past several months, I and the other members of the Labor and Human Resources Committee have been urgently pushing this bill and other methods of providing emergency assistance to low-income households and individuals, especially among elderly Americans, to assure that they do not have to make this tragic choice between food and fuel.

In my State of Michigan, all consumers who rely on heating oil for their homes will spend an average of 26.5 percent of their gross income on fuel during the 1979–80 heating season, compared with 17 percent last year, according to data compiled by the New England Research Group. This increase amounts to an average of $494 for each of the 514,000 households in my State which use heating oil.

This enormous escalation in heating costs puts severe strains on all Americans, but it is particularly important that we help our low-income households meet this burden. At least 81,500 households in Michigan which use heating oil have incomes below 125 percent of the poverty level, and a total of 651,052 households in the State have incomes below the Bureau of Labor Statistics' lower living standard. Clearly, these families have no "luxuries" to cut out of their household budgets. They do in fact face the choice of "heat or eat"—unless both Federal and State Governments act to help at once.

Mr. President, the Congress action last Friday in providing a $1.35 billion emergency appropriation for low-income energy assistance this winter was a major step to assure that Americans do not freeze to death for lack of money to pay their fuel bills. We could not have delayed much later. A month ago, I held a Labor and Human Resources Committee hearing in Michigan, and I spoke with many elderly and other low-income citizens who did not know if they would be able to pay for fuel this winter. With the help of both Federal and State programs now going into effect, they will now receive some of the help they desparately need.

As oil decontrol goes fully into effect, we cannot expect this problem to disappear over the next 2 years. Therefore I believe that the Home Energy Assistance Act we are voting on today is a vital piece of legislation. Our older citizens in particular should not be forced to wonder each fall whether they can afford to live until spring. We must have an emergency assistance program in place to help them meet their heating costs over the coming winters, as fuel costs can be expected to continue to climb.

Skyrocketing fuel costs have hit aging Americans with particularly cruel force. Fourteen percent of America's senior citizens live below the poverty line. These older Americans have no room in their already inadequate budgets to pay for higher fuel costs. Their choices are, day to day, between food and fuel, between health care and heat. I realize that these words paint a stark picture, but they do not exaggerate the circumstances in which many older Americans find themselves.

The plight of low-income senior citizens is made even more difficult by the fact that older persons are more likely than the rest of the population to live in older homes, in single-family dwellings, and in homes which are not energy-efficient. In addition, aging persons—and especially the very old—are at far greater risk than younger people for hypothermia, a condition in which excessive cold leads to a progressive fall in body temperature and the collapse of the cardiovascular system.

In testimony before the Special Committee on Aging on April 5, 1977, Dr. Robert Butler, Director of the National Institute on Aging, noted that—

> The special susceptibility of older people to the cold may cause them to die of hypothermia in mild weather. Some older people cannot maintain their body heat at temperatures commonplace in many homes.

For such individuals, even a home heated to the temperature of 70 degrees may pose a threat to health and even life.

This bill is far from a complete response to the needs of our elderly and low-income citizens who face skyrocketing fuel costs. We must also increase our efforts to promote weatherization and conservation, along the lines of bills currently pending in the Labor and Human Resources and other committees. As the country adjusts to the shortages and higher costs of energy, we must continue to do everything we can to make sure that our older and poorer citizens do not bear an unfair portion of the burdens.●

Mr. WILLIAMS. Mr. President, I submit for the RECORD a copy of the amendment which Senator LONG and I will offer tomorrow along with a table showing the formula in S. 1724 as modified by the minimum or floor contained in this amendment.

The material follows:

On page 19, line 20, strike out "$1,600,000,000 for the fiscal year 1980" and insert in lieu thereof "from the Low Income Energy Assistance Trust Fund established under section 103 of the Crude Oil Windfall Profit Tax Act of 1979".

On page 23, strike out lines 13 through 22, and insert in lieu thereof the following:

(A) first reserve $2,500,000 to be apportioned on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and Northern Mariana Islands and the Trust Territory of the Pacific Islands, and

(B) then transfer to the Director of the Community Services Administration $100,000,000, subject to the provisions of the second sentence of this paragraph for carrying out energy crisis related activities under section 225(a)(5) of the Economic Opportunity Act of 1964.

The percentage of the amount transferred under subparagraph (B) of this paragraph and available for use in each State shall be the same percentage as the percentage allotted to such State under this section for the total amounts available for allotment to States under subsections (a) and (b) of this section.

On page 23, line 23, strike out "(B)" and insert in lieu thereof "(A)".

On page 27, between lines 13 and 14, insert the following new subsection:

(h)(1) If the allotment for any State determined under paragraphs (1) and (2) of subsection (a) of this section is less than $100,000,000, the allotment of such State shall, subject to paragraphs (4) and (5) of this subsection, be the greater of its allotment as so determined under such paragraphs or the product of the total amount available for allotment under subsection (a) of this section and such State's alternative allotment percentage.

(2) The alternative allotment percentage for any State shall equal the percentage of 90 per centum of the total amount authorized to be appropriated for fiscal year 1981 under section 4(b) which would be allotted to such State if—

(A) of such 90 per centum (i) one-half was allotted to each State according to the ratios determined under paragraph (1) of subsection (a) of this section and (ii) one-half was allotted to each State according to the ratios which would be determined under paragraph (2) of such subsection (a) if, for purposes of such paragraph, the term "lower living standard" were defined as 125 per centum of the poverty level as determined in accordance with the criteria established by the Office of Management and Budget; and

(B) the allotment of each State as determined under subparagraph (A) were increased to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120.

(3) For purposes of this subsection, the term "recipient household" means—

(A) a household that is an eligible household under section 3 (i) of the Food Stamp Act of 1977 and participates in the food stamp program, but which is not a recipient household under subparagraph (B) or (C) of this paragraph;

(B) a household that contains any individual who receives aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, but which is not a recipient household under subparagraph (C); and

(C) a household that contains an individ-

ual who is an eligible individual or eligible spouse receiving supplemental security income benefits under title XVI of the Social Security Act, or an individual receiving payments from the Secretary under an agreement entered into by the Secretary under section 1616 of such Act or section 212 of Public Law 93–66.

For purposes of subparagraphs (B) and (C) the term "household" shall be defined by the Secretary, and shall not include an institution.

(4) The allotment of any State shall be increased under paragraphs (1) and (2) of this subsection only if the increase is attributable in whole or part to the provisions of subparagraphs (B) of paragraph (2).

(5) The allotments for any fiscal year determined under paragraphs (1) and (2) of subsection (a) of this section which are not increased pursuant to paragraphs (1) and (2) of this subsection shall be adjusted to the extent necessary and on a pro rata basis to assure that the total of such allotments when added to the allotments which are increased pursuant to paragraphs (1) and (2) of this subsection do not exceed 95 per centum of the sums appropriated for such fiscal year pursuant to section 4 (b).

On page 39, between lines 17 and 18, insert the following new subsection:

(g) The Secretary, in cooperation with such other agencies as may be appropriate, shall develop and implement the capacity for estimating total annual energy expenditures of low-income households in each State. The Secretary shall submit to the Congress his estimates pursuant to this subsection together with a description of the manner in which they were determined prior to the beginning of each calendar year starting with 1981.

On page 39, beginning with line 18, strike out through line 7 on page 44.

Distribution of $3 billion in low-income energy assistance under modified version of S. 1724

[Distribution of funds]

State	Millions of dollars	Percentage
Alabama	$41.19	1.40
Alaska	8.00	.27
Arizona	22.29	.76
Arkansas	29.33	.99
California	175.24	5.94
Colorado	36.61	1.24
Connecticut	52.93	1.79
Delaware	7.53	.26
District of Columbia	9.21	.31
Florida	60.05	2.04
Georgia	50.76	1.72
Hawaii	4.44	.15
Idaho	14.91	.50
Illinois	173.40	5.88
Indiana	83.04	2.82
Iowa	48.31	1.64
Kansas	31.12	1.06
Kentucky	48.84	1.66
Louisiana	38.36	1.30
Maine	26.74	.91
Maryland	47.23	1.60
Massachusetts	107.27	3.64
Michigan	144.30	4.89
Minnesota	77.89	2.64
Mississippi	30.99	1.05
Missouri	76.13	2.58
Montana	13.80	.47
Nebraska	24.93	.85
Nevada	7.67	.26
New Hampshire	17.39	.59
New Jersey	111.66	3.79
New Mexico	16.55	.56
New York	327.06	11.09
North Carolina	69.88	2.37
North Dakota	12.60	.43
Ohio	$161.97	5.49
Oklahoma	35.15	1.19
Oregon	29.48	1.00
Pennsylvania	195.59	6.63
Rhode Island	18.06	.61
South Carolina	31.40	1.06
South Dakota	13.51	.46
Tennessee	53.30	1.81
Texas	117.46	3.98
Utah	17.00	.58
Vermont	11.16	.38
Virginia	60.55	2.05
Washington	43.15	1.46
West Virginia	27.96	.95
Wisconsin	80.66	2.73
Wyoming	6.00	.20
Total	2,950.00	100.00

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

Mr. President, the Senate will return to the consideration of this measure tomorrow morning at 10 o'clock.

DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Mississippi (Mr. STENNIS), I ask that the Chair lay before the Senate a message from the House of Representatives on S. 673.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 673) entitled "An Act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980".

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATION EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy (hereinafter in this title referred to as the "Department") for fiscal year 1980 for operating expenses incurred in carrying out national security programs, including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy, as follows:

(1) For the defense inertial confinement fusion program—

(A) for glass laser experiments, $44,200,000;

(B) for gas laser experiments, $29,300,000;

(C) for electron and particle beam experiments, $12,200,000;

(D) for supporting research and experiments, $38,300,000, of which no more than $2,800,000 may be used to finance contract modification numbered ED–78–C–08–1598 or any revision or modification thereof; and

(E) for personnel, $1,090,000.

(2) For the naval reactor development program—

(A) for the naval reactor development program, $232,600,000; and

(B) for personnel, $8,767,000.

(3) For weapons activities—

(A) for research and development, $421,143,000;

(B) for weapons testing, $225,000,000;

(C) for production and surveillance, $772,000,000; and

(D) for personnel, $37,098,000.

(4) For verification and control technology (including personnel), $36,800,000.

(5) For materials production, to be administered by the Assistant Secretary for Defense Programs—

(A) for production reactor expenses, $180,300,000;

(B) for the processing of nuclear materials, $82,400,000;

(C) for supporting services, $67,714,000, of which $15,000,000 shall be used for the fiscal year 1980 increment of startup costs for the Purex chemical processing plant at Richland, Washington;

(D) for fluorinel processing of nonproduction fuels and related activities, $21,390,000;

(E) for advanced isotope separation research, $5,000,000; and

(F) for personnel, $944,000.

(6) For defense waste management (including $1,691,000 for personnel) $211,250,000, of which no funds may be used for the Waste Isolation Pilot Plant, Delaware Basin, southeast New Mexico.

(7) For the nuclear materials security and safeguards technology development program (defense program), including $3,560,000 for personnel, $43,227,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department for fiscal year 1980, for plant and capital equipment, including planning, construction, acquisition, or modification of facilities (including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, necessary for national security programs, as follows:

(1) For inertial confinement fusion:

Project 80–PE&D–1, plant engineering and design, $1,500,000.

Project 80–AE–12, target fabrication facility, Los Alamos Scientific Laboratory, New Mexico, $1,000,000.

Project 80AE–12, target fabrication facility, Lawrence Livermore Laboratory, California, $1,000,000.

Project 75–3–b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, and additional sum of $8,000,000, for a total project authorization of $62,500,000.

(2) For naval reactors development:

Project 80–AE–1, fluids and corrosion test facilities upgrading, various locations, $17,900,000.

Project 80–GPP–1, general plant projects, $3,300,000.

(3) For weapons activities:

Project 80–AE–4, addition to computer facility, Sandia Laboratories, Livermore, California, $2,800,000.

Project 80–AE–5, ground launched cruise missile (GLCM) warhead production facilities, various locations, $4,000,000.

Project 80–AE–6, utilities and equipment restoration, replacement and upgrade, various locations, $39,400,000.

Project 80–AE–8, advanced size reduction facility, Rocky Flats Plant, Golden, Colorado, $5,000,000.

Project 80–AE–9, new polymer production facility, Bendix Plant, Kansas City, Missouri, $1,400,000.

Project 80–AE–10, additional loading facilities, Savannah River Plant, Aiken, South Carolina, $3,500,000.

Project 80–AE–11, Pershing II warhead production facilities, various locations, $5,000,000.

Project 80–GPP–1, general plant projects, $25,400,000.

Project 80–PE&D–1, plant engineering and design, $3,600,000.

Project 71–9, fire, safety, and adequacy of operating conditions projects, various locations, an additional sum of $7,000,000, for a total project authorization of $287,000,000.

Project 77–11–c, 8" Artillery Fired Atomic Projectile (AFAP) production facilities, various locations, an additional sum of $4,600,000, for a total project authorization of $27,200,000.

Project 78–16–d, weapons safeguards, various locations, an additional sum of $2,000,000, for a total project authorization of $28,000,000.

Project 78–16–g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $6,200,000, for a total project authorization of $12,500,000.

Project 79–7–b, fire protection improvements, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $2,500,000, for a total project authorization of $4,500,000.

Project 79–7–c, proton storage ring, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $11,700,000, for a total project authorization of $16,700,000.

Project 79–7–l, system research and development laboratory, Sandia Laboratories, Albuquerque, New Mexico, an additional sum of $12,000,000, for a total project authorization of $13,000,000.

Project 79–7–n, utility system restoration, Y–12 plant, Oak Ridge, Tennessee, an additional sum of $15,800,000, for a total project authorization of $18,000,000.

Project 79–7–o, universal pilot plant, Pantex Plant, Amarillo, Texas, an additional sum of $3,900,000, for a total project authorization of $7,400,000.

(4) For materials production:

Project 80–AE–2, replace obsolette processing facilities, HB Line, Savannah River, South Carolina, $19,000,000.

Project 80–AE–3, steam generation facilities, Idaho Chemical Processing Plant, Idaho, $10,000,000.

Project 80–GPP–1, general plant projects, $15,000,000.

Project 80–PE&D–1, plant engineering and design, $3,400,000.

Project 77–13–a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, an additional sum of $54,400,000, for a total project authorization of $119,400,000.

Project 78–18–e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, an additional sum of $11,500,000, for a total project authorization of $40,000,000.

Project 79–7–l, transmission and distribution systems upgrading, Richland, Washington, an additional sum of $7,000,000, for a total project authorization of $14,000,000.

(5) For defense waste management:

Project 80–GPP–1, general plant projects, $8,800,000.

Project 80–PE&D–1, plant engineering and design, $8,000,000, of which $3,000,000 shall be available only for plant engineering and design at the Savannah River Plant, Aiken, South Carolina.

Project 77–13–f, Waste Isolation Pilot Plant, Delaware Basin, southeast New Mexico (A–E, land lease acquisition and long-lead procurement), a reduction in the amount previously authorized of $30,000,000, for a total project authorization of $38,000,000.

Project 75–1–c, new Waste Calcining Facility, Idaho Falls, Idaho, an additional sum of $25,000,000, for a total project authorization of $90,000,000.

(6) For capital equipment not related to construction, as follows:

(A) For inertial confinement fusion, $10,100,000.

(B) For naval reactors development, $15,800,000.

(C) For weapons activities, $104,164,000.

(D) For verification and control technology, $1,060,000.

(E) For materials production, $35,000,000.

(F) For defense waste management, $12,000,000.

(G) For nuclear materials security and safeguards, $3,400,000.

TITLE II—GENERAL PROVISIONS

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of either (A) 105 percent of the amount authorized for that program by this Act, or (B) $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the appropriate committees of Congress receive notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

SEC. 202. The Secretary of Energy is authorized to start any project provided for under the general plant projects provisions set forth in this Act only if—

(1) the then maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in such project does not exceed $300,000, except that the building cost limitation may be exceeded if the Secretary determines that it is necessary to do so in the interest of efficiency and economy, and

(2) the total cost of all projects undertaken under all general plant projects provisions in this Act does not exceed the estimated cost of all such projects by more than 25 percent.

SEC. 203. (a) Whenever the currently estimated cost of a line item construction project for which appropriations are authorized in section 102 of this Act exceeds by more than 25 percent the estimated cost for such project on the date of the enactment of this Act, such project may not be started or additional obligations incurred in excess of the amounts currently appropriated, as the case may be, unless (1) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after the appropriate committees of Congress receive a notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (2) each such committee before the expiration of such period has transmitted to the Secretary of Energy written notice to the effect that such committee has no objection to the proposed action.

(b) The provisions of this section shall not apply to any project which has a currently estimated cost of less than $5,000,000.

SEC. 204. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 205. When so specified in an appropriation Act, funds authorized to be appropriated by the Act may be transferred to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.

SEC. 206. The Secretary of Energy is authorized to perform construction design services for any construction project of the Department of Energy in support of national security programs which have been presented to the Congress, in amounts not in excess of the amounts specified in section 102 for plant engineering and design. In any case in which the estimated design cost for any project is in excess of $300,000, the Secretary shall notify the appropriate committees of Congress in writing of the estimated design cost for such project at least thirty days before any funds are obligated for design services for such project.

SEC. 207. In addition to construction design services performed with plant engineering and design funds, the Secretary of Energy is authorized to perform construction design services for any Department of Energy defense activity construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Secretary, and (2) the Secretary determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 209. When so specified in an appropriation Act, amounts appropriated for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

SEC. 210. None of the funds authorized to be appropriated by this or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

SEC. 211. None of the funds authorized to be appropriated by this or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if (1) the Secretary of Energy finds that compliance is physically impossible within the time prescribed for compliance, or (2) the President has specifically requested appropriations for compliance as a part of the budgetary process and the Congress has failed to make available such appropriations.

SEC. 212. Beginning in fiscal year 1980, the Secretary of Energy shall ensure that the contract for the delivery of byproduct steam to the Washington Public Power Supply System is renegotiated in such a manner that the United States will recover the fair market value of the steam so delivered.

SEC. 213. (a) The Secretary of Energy shall proceed with the Waste Isolation Pilot Plant construction project authorized to be carried out in the Delaware Basin of southeast New Mexico (project 77–13–f) in accordance with the authorization for such project as modified by this section. Notwithstanding any other law, the Waste Isolation Pilot Plant is authorized as a defense activity of the De-

partment of Energy, administered by the Assistant Secretary of Energy for Defense Programs for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States exempted from regulation by the Nuclear Regulatory Commission.

(b)(1) In carrying out such project, the Secretary shall consult and cooperate with the appropriate officials of the State of New Mexico, with respect to the public health and safety concerns of such State in regard to such project and shall, consistent with the purposes of subsection (a), give consideration to such concerns and cooperate with such officials in resolving such concerns.

(2) The Secretary of Energy may not enter into any agreement or make any commitment under which the State of New Mexico, or any official of such State, could in effect veto such project.

(c) No law enacted after the date of the enactment of this Act shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.

SEC. 214. (a) As soon as practicable and not later than February 1, 1980, the Secretary of Energy shall submit to the Congress a plan for the termination of the performance of work of the Department of Energy at the Ernest Orlando Lawrence Livermore Laboratory and at the Los Alamos Scientific Laboratory under contracts numbered W-7405-ENG-36 and W-7405-ENG-48 between the United States and the Regents of the University of California (a corporation of the State of California). Such plan shall include provisions to assure that such a termination of work would be conducted in accordance with the terms of such contracts.

(b) The Secretary of Energy shall study the types of contracts that would best provide for the continued performance of the work performed under the contracts referred to in subsection (a). The Secretary shall include in any contract proposed to replace such contracts terms to assure that—

(1) the paramount objectives and missions of such laboratories continue to be in the field of national security;

(2) the transition from management of such laboratories by the University of California to management by any new contractor will be orderly, involve a minimum of uncertainty, and provide employee rights and benefits (including rights and benefits with respect to pensions and retirement) reasonably comparable to those currently provided employees of the laboratories by the Regents of the University of California; and

(3) any new contractor may retain as many of the current management officials and employees of the laboratories as may be consistent with maintaining and fostering excellence in carrying out the functions assigned to the laboratories.

(c)(1) The Los Alamos Scientific Laboratory at Los Alamos, New Mexico, shall after the date of the enactment of this Act be known and designated as the "Los Alamos National Scientific Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Los Alamos Scientific Laboratory shall after such date be considered to be a reference to the Los Alamos National Scientific Laboratory.

(2) The Ernest Orlando Lawrence Livermore Laboratory at Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Ernest Orlando Lawrence Livermore National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Ernest Orlando Lawrence Livermore Laboratory shall after such date be considered to be a reference to the Ernest Orlando Lawrence Livermore National Laboratory.

(3) The Sandia Laboratories at Albuquerque, New Mexico, and Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Sandia National Laboratories". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Sandia Laboratories shall after such date be considered to be a reference to the Sandia National Laboratories.

Amend the title so as to read: "An Act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Mr. STENNIS, that the Senate disagree to the amendments of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. JACKSON, Mr. STENNIS, Mr. HART, Mr. EXON, Mr. LEVIN, Mr. COHEN, Mr. TOWER, and Mr. THURMOND conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from New Jersey.

ADDITIONAL VIEWS OF SENATORS NELSON, RIBICOFF, MOYNIHAN, AND BRADLEY ON WINDFALL PROFITS TAX

Mr. BRADLEY. Mr. President, tomorrow the Senate will take up the windfall profits tax, H.R. 3919. For the convenience of Senators and others who may not have easy access to the committee report, I ask unanimous consent that a copy of my views, as well as the additional views of Senators NELSON, RIBICOFF, and MOYNIHAN be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF SENATORS RIBICOFF, NELSON, MOYNIHAN, AND BRADLEY

The impetus for this legislative endeavor was the President's decision to decontrol crude oil, an action which will ultimately result in tremendous financial gain for some, and hardship for others. Therefore, the committee set out to devise a plan to be implemented through our system of taxation which would rectify some of the injustices which would otherwise result.

However, as with any labor which involves compromise, there are segments of this work which departed from our original intent. These diversions are not irrevocable, we have the opportunity to strengthen those segments in question, and offer a sound legislative response to the now inequitable energy market place.

The issues that we discuss in this statement are illustrative, but by no means exhaustive of the areas where we believe the bill must be improved.

INDEPENDENT-STRIPPER EXEMPTION

The committee bill exempts from taxation stripper wells producing up to 1,000 barrels a day which are at least 50 percent owned by independent producers. Stripper wells are those which produce 10 barrels per day or less in any 12-month period. Once wells qualify, there is no limit on the amount of oil they can then produce while still getting the advantages already in the law for stripper treatment. In most cases, these are lower tier wells, that is, wells with production costs incurred when oil was selling at $4–$5 per barrel, not $23 as now.

The effect of this "modified independent-stripper" exemption is to reduce revenues from the tax by over $16 billion. The exemption will not lead to increased production. In fact this added tax benefit may actually operate as another incentive to reduce production in some wells so as to qualify for stripper status.

The committee's consideration and rejection of other, more generous proposals for stripper wells and independent producers highlights the unjustifiable decision the committee ultimately made. There may have been a sentiment among some members that "something" should be done for the independents, something with comparatively less revenue impact than oil exemption. This decision may be based on the belief that independents are small, high-risk operations. But many of the independents which qualify under the committee's provisions are very large companies. Indeed, the 1,000 barrel per day limitation translates into oil revenues of as high as $11,000,000 a year per company. This is unjustified and no basis for a major revenue exemption.

TIER II TAX RATE AND PHASEOUT

A good example of the committee's rejection of preferential treatment that is not justified by a production response was its decision to impose a 75 percent tax rate on tier one oil—oil in production prior to 1973. By contrast, its decision to apply a lower rate on tier two is inconsistent. Tier two, or upper tier oil, is also oil now in production. These wells were drilled more recently and their production costs are somewhat higher, but decontrol offers revenues vastly greater than that contemplated when the wells were first drilled. As with other old oil, tier two oil will be produced in no more significant quantities if the tax rate remains at 60 percent. A 75 percent rate for this oil is fully warranted.

The committee bill has adopted a phaseout based upon an arbitrary level of receipts. Under this formulation, the tax would begin to phase-out when receipts reach $127.5 billion. When that will occur is anyone's guess, since it relies on OPEC decision to raise its prices to higher levels. If oil prices continue to rise at the extraordinary levels of the past few months, the tax will end in a few years. If moderation governs OPEC decisions, the tax will stay in effect longer. Thus the committee bill presents the peculiar results of ending the tax earlier if prices rise faster. And the greater the future windfalls from these increases, the better off the companies will be.

This tax should be permanent. We should have in place a permanent mechanism to recapture for future public needs, part of any new windfalls that come from decontrol. There is no more reason to permit oil companies to retain the full benefits of future unwarranted increases in the value of their domestic revenues than there is in giving them the full amount of the present windfall.

Future increases in the price of oil will encourage the development of alternative energy sources, increased conservation, and renewed efforts to develop more energy-efficient transportation. As oil prices continue to go up, they will present new crises and new policies to meet them. While we cannot anticipate what these crises may be, it is certain that they will make new demands on the federal treasury.

While the revenue impact of making the Tier II tax permanent will at first be modest ($2.9 billion in the next decade), in the years thereafter the revenue will be directly related to the pace of OPEC prices.

We intend to urge the full Senate to complete the good beginning made by the com-

mittee, and to enact a windfall profits tax which will be fair and beneficial to the Nation.

ADDITIONAL COPIES OF A REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON and Mr. STEVENS, I send to the desk a resolution providing for the additional printing of copies of the report of the Committee on Energy and Natural Resources. I ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

The Senator from West Virginia, on behalf of Mr. JACKSON and Mr. STEVENS submits a resolution (S. Res. 280) as follows:

Resolved, That at such time as the Committee on Energy and Natural Resources files its report to accompany H.R. 39, "The Alaska National Interest Lands Act" there shall be printed for said Committee such additional copies as may be procured at a cost of not to exceed $1,200.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution. The resolution has been cleared by the chairman and ranking minority member of the Committee on Rules and Administration.

The resolution (S. Res. 280) was considered by unanimous consent and agreed to.

ORDER FOR BILL TO BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as H.R. 5811, a bill to waive congressional oversight for District of Columbia interest rate modification, is received from the House, it be held at the desk pending further disposition.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not, the reservation is for the purpose of advising the majority leader that this handling of this matter is cleared on our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business of not to exceed 15 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COAL CONVERSION

Mr. HEINZ. Mr. President, I wish to share with my colleagues the essence of some remarks I will make later this evening at the annual dinner of the Pennsylvania Farmers Association in Hershey, Pa.

Mr. President, recent events in Iran, which have led President Carter to order the termination of oil purchases from that country, reemphasize the importance of reducing our consumption of imported oil. As my colleagues from coal-producing States, coal miners, coal producers, the President's Commission on Coal, and I have stressed repeatedly, coal—our most adundant fossil energy resource—can make an immediate contribution to reducing our dependence on foreign oil by displacing oil and natural gas that is currently being burned under boilers which are capable of utilizing coal.

In his statement to the Nation on energy, President Carter outlined an oil back-out program which would cut utility consumption of oil in half during the next 10 years. However, to date, the legislation needed to implement this program has not been drafted by the administration. The urgency of the situation could not be more clear. Therefore, I urge the administration to immediately send to Congress legislation establishing this program.

After discussion with my colleagues, I have concluded that it is imperative that the utility oil reduction program contain the following provisions:

First. The 50 percent reduction by 1990 announced by the President must not be a final goal. Rather, it should be known that it is an interim goal on the road to eliminating all unnecessary consumption of oil and natural gas in utility or large industrial boilers. To insure that meeting the 50-percent goal does not become an end in itself, progressively larger percentages should be established for 1995 and beyond.

Second. Natural gas must be included in the program. The Powerplant and Industrial Fuels Use Act of 1978 includes a provision which prohibits consumption of natural gas in existing electric powerplants after January 1, 1990. However, the exemption provisions of the act are too broad, and will allow the prohibition to be circumvented. At the time the Senate was considering PIFUA, I offered a series of amendments which would have advanced the date of the prohibition to January 1, 1985 and eliminated the permanent exemption provisions included in the bill. However, as these amendments were not then acceptable to the administration and thus not adopted, it is necessary at this time to expand the program outlined by the President to include natural gas.

Natural gas is a premium fuel which is most suitable for use in residential and small commercial applications. Converting substantial natural-gas-burning installations to coal will release fuel which is domestically produced for use in displacing even more imported oil in residential and small commercial applications. Simply put, burning natural gas in utility and large industrial boilers is an inefficient use of a versatile fuel source that is finite in supply.

Third. The financial assistance mentioned by President Carter must be increased from $5 billion to $15 billion. In spite of the fact that, in just about every case, conversion from natural gas or oil to coal would be economically advantageous, many utilities do not have access to the capital needed to implement the conversion. The benefits of reducing consumption of oil and natural gas in the utility sector will accrue to the entire Nation. However, the costs will fall directly on the utilities that are currently burning oil or natural gas. Thus, to minimize the adverse impact of the initial capital expenditures on specific utilities and their customers, the Federal Government should provide funds for loans, loan guarantees and grants to utilities that have approved conversion programs. Recent estimates by the President's Commission on Coal put the capital cost of conversion of the 341 boilers which they have identified as coal-capable between $35 and $50 billion over the next 10 years. Clearly, if we are to meet our goal, more funds than the $5 billion proposed by President Carter must be made available.

Mr. President, coal conversion is the means by which an immediate major reduction in oil consumption and dependence can be implemented. The technology exists and the coal industry has demonstrated its commitment to meeting the country's needs. In 1973, when the first oil embargo focused attention on our vast domestic coal reserves, the coal industry accepted the challenge of doubling national coal production by 1985. An inability to find consumers, not an inability to produce, has frustrated that goal. Currently the industry has excess capacity of 150 million tons per year and thousands of American miners are out of work because there is a surplus of coal. While this vast resource remains untapped, other Americans pay ever-increasing prices for imported oil. My colleagues from coal-producing States and I are convinced that our dependence on foreign oil can be reduced without eliminating economic growth. We are convinced of this because we know that coal can provide the energy needed to fuel our utility and large industrial boilers, because we know that coal can be converted into clean, efficient fuels, and because we know that America's coal industry can meet the challenge of producing the coal that the country needs to eliminate its dependence on foreign sources of energy.

A meaningful coal conversion program must be an integral part of our efforts to encourage the utilization of coal and our national energy program. Therefore, I urge the President to take immediate action on the oil and natural gas back-out program which he originally proposed.

DELETION OF ADDITIONAL POSITIONS FOR INTERIOR'S OFFICE OF INSPECTOR GENERAL

Mr. PERCY. Mr. President, I wish to express my deep disappointment that the authorization of 44 additional positions approved by the Senate for the Department of the Interior's Office of Inspector General was not adopted by the conference committee on the Interior appropriations bill last Friday. After reviewing a recent GAO report depicting the lack of support given to the Inspector General by Interior's top management and Inspector General Brown's justifications for her fiscal year 1980 budget request, I am convinced that the additional staff positions are urgently needed if the IG is to adequately review Interior's annual collections of nearly $4 billion in revenues and administration of some $2 billion in contracts and grants.

Last year, the Congress acted to create Offices of Inspector General through the 1978 Inspectors General Act as the best way to ferret out abuse, excessive and wasteful spending, and mismanagement within Federal agencies and departments. However, this very important goal of saving taxpayers' dollars through efficient and honest government cannot be attained without Congress enthusiastic support. Funds which are invested now in the Offices of Inspector General will reap large returns in the future. Strong Inspectors General, supported by sufficient audit and investigative staff, are essential in helping to regain the American people's confidence in their Government.

Again, I deeply regret that the Senate Conferees' receded to the House in not approving the additional staff so urgently needed by Interior's Inspector General.

REBUILDING THE ECONOMY—PART II

Mr. PERCY. Mr. President, we talked at great lengths last spring about a possible 1980 tax cut. Opponents of a tax cut have alleged that any tax cut at this time would be inflationary and could not possibly do the economy any good.

This is clearly not the case if a tax cut is structured in the right way.

All 41 Senate Republicans have joined behind a tax cut that would not inflate the economy. Our proposal would get at the very source of inflation in this country: lagging productivity. The bill is divided into three parts. Title I incorporates my own Small Savers Incentive Act and would allow exemptions for interest earned on savings accounts and would increase the exclusion for reinvested dividends. Title II incorporates the Capital Cost Recovery Act which would bring the depreciation system more in line with true replacement costs. Title III is Senator DANFORTH'S research and development tax credit.

This approach to tax reduction is the appropriate one for the economy at this time. It will not be inflationary because these specifically targeted cuts will lead to more efficient production and an expansion of the capital available for investment. Combined, these tools will raise our productivity and lead to a decline in the inflation rate.

Let us take just one aspect of this bill today and ask whether a tax incentive for savings will work. My bill, the Small Savers Incentive Act (S. 1542), creates a $100 exclusion for interest earned from savings accounts like the existing exclusion for dividends. In addition, my proposal would provide an exclusion for both dividend and interest—up to $400 for each—to the extent that it was reinvested during the tax year. Because of the reinvestment requirement, the exclusion will lead to a net increase in savings. In turn, I anticipate that this larger pool of capital will be tapped by businesses looking for funds to expand and modernize their plants and equipment.

But will it work?

Mr. President, we have an indication that targeted tax cuts for investment do, in fact, work. Just take one look at the capital gains tax cut, passed just last fall in the Revenue Act of 1978.

Representative Bill Steiger and Senator Cliff Hansen, with my and other cosponsorships, introduced the tax cut legislation last year because we realized that the market for new stock issues had virtually disappeared, that stock prices had declined relative to corporate earnings and that corporate reliance on debt—as opposed to equity—financing had increased. These developments could be traced back to 1969 when the Tax Reform Act increased capital gains taxation.

We have had enough experience with the 1978 capital gains tax cut to begin to see that the tax cut was an important one for the economy and that cuts of this type do, indeed, stimulate economic activity. In the October 31 Wall Street Journal, Edward O'Brien, president of the Securities Industries Association, presented the compelling details of the success of the capital gains tax cut.

We can bring about similar developments in savings patterns, research and development efforts, and—most importantly investment—through passage of the Republican tax bill.

Mr. President, I ask unanimous consent that Mr. O'Brien's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REDUCTION OF TAX ON CAPITAL GAINS SPURS INVESTMENT

(By Edward I. O'Brien)

With increasing interest in various tax measures designed to stimulate savings and investment, an evaluation of the capital gains tax roll-back enacted a year ago seems to be in order.

The Revenue Act of 1978, passed last October, produced the first capital gains tax cut in over 40 years. Proponents had argued that this would encourage investment. But, within a few months of its passage, attempts were made to discredit the measure based on a lackluster stock market. Ignoring the impact of suddenly increased interest rates, accelerating inflation and impending recession, critics were quick to brand the capital gains tax cut a failure.

More recently, though negative factors continue to plague our markets, evidence of a favorable impact is emerging. There are three principal early indicators: sharp price appreciation for the stocks of smaller-capitalized companies; increased initial public offerings of small companies; and a marked pickup in venture capital investments.

Stock markets span a range of investment opportunities, each associated with a different level of risk and rate of return, ranging from heavily capitalized issues represented by the Dow Jones Average and the Standard & Poor's 500 to smaller-capitalized issues represented by the American Stock Exchange and the NASDAQ indices. The smaller-capitalized issues are relatively more risky and presumably offer potentially higher returns.

Institutions, many exempt from all taxes on income and capital, are predominantly in the larger-capitalized issues, while individuals tend to invest in smaller-capitalized stocks. Thus, any reduction in capital gains taxes, which applies primarily to individuals, should have a different impact on these two kinds of issues.

This is exactly what has happened. From Nov. 1 1978 (when parts of the revised tax code become effective), to Sept. 30, 1979, the Dow Jones Average rose only 6.1 percent and the S&P 500 12.9 percent. In contrast, the Amex Index increased 57.0 percent and the NASDAQ rose 30.8 percent. It is apparent that individual investors valued the stocks of smaller-capitalized issues at substantially higher prices since the capital gains tax cut.

A host of economic and political variables influence the overall climate for investment which, in turn, exerts the most important influence on the level of initial public offerings. Even so, the impact of tax policy is clearly visible over the past decade.

Common stock initial public offerings

Year	Share value (millions)	Number of issues
First half 1979	$256	59
Second half 1978	160	40
First half 1978	54	18
1977	276	49
1976	271	45
1975	236	25
1974	117	55
1973	1,872	177
1972	3,301	646
1971	1,917	446
1970	1,451	566
1969	3,545	1,298
1968	1,742	649

Source: Investment Dealers' Digest.

It is noteworthy that 75% of the value of 1978 initial public offerings was issued in the second half of that year, when congressional approval of a capital gains reduction was widely anticipated. Figures for the first half of 1979 show the value of initial public offerings to be about double the level of recent years.

In contrast, the increase in the maximum capital gains tax rate from 25% to nearly 50%, effective from 1970 through most of 1978, provided a disincentive to investors. Along with the disastrous impact of the 1973–74 bear market on the stock prices of smaller-capitalized companies in particular, this produced a double-barrelled negative effect on individuals' appetite for new issues.

But that appetite changed considerably when it became apparent that Congress would lower the capital gains levy. Thus, during the second half of 1978 the value of new offerings tripled and the number of issues doubled over the first half.

A similarly sharp increase has taken place in venture capital investment. Stanley Pratt, editor of Venture Capital, estimates that private partnership venture capital investments amounted to approximately $22.5 million in 1974. No private funds were committed to venture capital enterprises during 1975. In 1976, such investments amounted to $25.7 million and in 1977, just $20.2 million.

But in 1978, private partnership venture capital investments rose dramatically, to $215 million. The bulk of this increase took place in the fourth quarter, when congressional passage of the capital gains tax cut was imminent. As reported in The Wall Street Journal (William M. Bulkeley and Lindley B. Richert, "Venture Capital is Plentiful Once More, Due in Part to Change in Capital Gains Tax," June 15, 1979), it is believed that venture capital investments will reach close to $300 million in 1979.

Thus, the market indices, new stock issues and venture capital commitments add up to

solid evidence that the 1978 capital gains tax reduction has had a positive impact on investment, despite other very negative developments in the U.S. economy. More important, from a public policy viewpoint, the main beneficiaries of the lower capital gains taxes appear to be smaller companies. It is just such young, innovative companies that are responsible for the greatest percentage gains in employment.

As joblessness rises along with election year pressures for general tax reduction, it is to be hoped that the efficacy of last year's capital gains tax cut will not be sold short.

OIL, OPEC, AND ENERGY POLICY

Mr. DURENBERGER. Mr. President, some recent news commentators have accused the Senate Finance Committee of not knowing what it was doing in approving the Crude Oil Windfall Profit Tax Act. These analysts have based their accusation on the fact that some have labeled the tax a "windfall profits" tax when it is actually an excise tax. I can assure the news media that we were quite aware that this tax is an excise tax. I should also point out that the commentators have conveniently ignored the fact that the price of oil on which this excise tax is based is not a market price. Rather, it is the price dictated by the OPEC cartel.

If the change in the world price of oil over the last 7 years reflected the normal working of the marketplace, there would be no justification for this legislation. However, the price of oil has not been dictated by supply and demand. Producing nations have arbitrarily set the price for oil. Industrialized nations which require oil as a basic resource have panicked. At the moment, we can observe the folly of our oil madness in the workings of the spot market. The price of oil per barrel is hovering around $40 in the spot market. The official OPEC price is almost half that amount. The Western nations insist on pushing up the price despite the fact that storage capacity is nearly full and that production is currently greater than consumption. Just at the point where we might be able to exert downward pressure on oil prices, our opportunity is effectively sabotaged by the irrational energy policy of our allies. It is no wonder that OPEC appears to be invincible.

The recent decision by the President to cut off oil purchases from Iran is another opportunity to face up to the energy blackmail of OPEC. However, the news reports are already filtering in that other nations are moving to buy the oil that would normally be channeled to the United States. Must the United States stand alone? Where is the will and resolve of our allies?

My No. 1 priority when I was elected to the Senate was our energy problem. At the beginning of this year, I did not anticipate that the Senate would spend much time on energy in this session. World events changed our timetable, and the Congress has finally had to legislate an energy policy for this country. The last step in the process is the Windfall Profit Tax Act. When the bill was reported by the Finance Committee, I included in the report my views on the purpose of this important legislation. I ask unanimous consent that my views be printed in the RECORD after my remarks, today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURENBERGER. I also recommend an article which appeared in the November 19, 1979 edition of Business Week. While the American public has experienced gasoline and distillate shortages and the ravages of rapid energy inflation over the past few months, this article suggests that the long term impact of the recent OPEC price increases may be even more severe. The threat to the international monetary system arising from OPEC control over the flow of the wealth, as well as the flow of oil, is only dimly understood by the American public, but may in the long run be seen as the most serious aspect of the energy crisis.

Mr. President, I ask unanimous consent that the Business Week article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Business Week, Nov. 19, 1979]

THE PETRO CRASH OF THE 80's

The world economy and the international financial system are in deep trouble as the price of oil races up faster than the rate of inflation and as the surplus cash hoard of the members of the Organization of Petroleum Exporting Countries piles up faster than it can be spent. This year, more than ever before, OPEC has captured the power to drain money—petrodollars—from the consuming countries at will, and no longer is there even a vestige of unity among the consuming countries in combating OPEC. Instead, individual governments everywhere scurry to make their own deals with OPEC, and instead of a coordinated response to the oil mess, there is something very close to open economic warfare among nations. And should Iran's political turmoil shut down its oil exports altogether, oil prices could easily double for all consuming nations.

The world was in trouble with OPEC before—in 1974 after the first big price increase. Then, too, petrodollars flowed from the consuming nations to OPEC in the greatest transfer of wealth ever seen. But then OPEC spent much of its hoard on imports from, and investments in, the industrial countries. The rest went to less developed countries through petrodollar loans recycled through U.S. banks. If the total amount of petrodollars was vast, it was also manageable through existing institutions. Finally, higher oil production by OPEC and weak demand from a world economy that only slowly emerged from the 1974–75 recession dropped the price of oil below the burgeoning global inflation rate, so that the real price of oil fell. From $70 billion in 1974, the surplus of OPEC's members fell to $7 billion in 1978.

This has totally changed, and now OPEC controls—and sharply limits—the supply of oil, sending prices skyrocketing, and a vast and growing share of the world's wealth is flowing according to the dictates of the oil-producing nations. Just as the U.S. and the West lost control of energy in the 1970s, so too are they in danger of losing control over the world's flow of capital and wealth in the 1980s.

The most immediate peril of the soaring price of oil is that the industrial world and the majority of developing countries are confronted with the specter of chronic, global stagnation. Money sent overseas to pay for oil cannot be spent or invested at home, and this forces national monetary authorities to create more money to make up for what is being lost. In 1979, the U.S. will pay $65 billion for its oil imports, and by 1981 that could easily top $80 billion. The result for the U.S. and for much of the rest of the world is serious inflation and—with OPEC pricing its oil ahead of the global inflation rate—an inflation with no end.

In fact, oil price rises now account for 25% to 50% of total inflation around the world, and OPEC is set to meet again in December, when it will almost certainly vote further price increases simply because world inflation is so high. National economic policies having proved ineffective over the longer run, the OPEC effort to push oil prices ahead of world inflation threatens to become a deadly spiral that an occasional recession will slow but never really kill. Governments that try to fight the inevitable inflation that higher oil prices bring will find themselves curbing economic growth and raising unemployment, moves that could force them out of office. And nations that have to import their oil are faced with enormous balance-of-payments deficits that only heavy borrowing and fierce attempts to export can alleviate.

A NEW WORLD EQUILIBRIUM

But the seemingly permanent oil crisis goes far beyond the traditional concerns about balancing national trade deficits or fighting inflation.

There is, for example, the problem of trying to manage world economies and an international financial system in the face of those ever-growing hoards of petrodollars. The Iranian experience taught the OPEC countries what can happen when a nation tries to import too much too fast. Soaring popular expectations exceeded the Shah's willingness to fulfill them, and the Peacock throne toppled. For all the threats of OPEC's buying great hunks of the industrial West, OPEC nations have been slow to invest directly in the industrial economies. Some of the petrodollars will again be recycled to the developing countries. But although the need for this money is as great is ever, fewer LDCs are seen as deserving borrowers today, because they already owe so much to Western banks. Thus a monetary system that is trembling already must learn to live with torrents of new cash pouring in—with fewer and fewer places to go and with investment decisions made by nations that have little love for the West or its institutions.

Finally there is the most basic threat—to the very industrial society that has grown in the West over two centuries. Says Minos A. Zombanakis, chairman of INA Holdings Ltd.: "My basic belief is that the energy crisis of 1974 created a fundamentally new situation in the world that we mistakenly talk of as though it were a static problem that can be cured by financial transfers. It is not a short-term problem but one that will last through our lifetimes. And I don't see it as a financial problem. It is so colossal we ought to see it in terms of what we have to do in terms of industrial relocations to restore a new world equilibrium. It is a problem of world trade restructuring."

Some think such a restructuring can be accomplished peaceably—that logic and common sense will force energy-using industries to relocate in energy-producing areas, for instance. Zombanakis thinks that the best way to beat the oil-producing countries is to bring them even further into the Western economy. "We tell the Arabs we want to buy gasoline instead of crude," he says. "We save 10% on transportation, and once they have built the refineries and created the jobs that go with it, we have committed them to our kind of world."

But so far that approach has only weak-

ened the Western alliance, with Europe and Japan each scrambling to move away from the U.S. to make their own deals with OPEC. The capturing of both the world's supply of capital and its energy may prove to make OPEC so powerful in the decade ahead that the Western alliance will crack apart as nation after nation moves to align itself economically, politically, and perhaps militarily with OPEC. It may be that an Arab banking system funneling petrodollars through the European Monetary System will replace the current domination of the world's financial system by U.S. banks and the IMF.

This depends, of course, on OPEC's willingness to play the power broker part. If it refuses, there is another scenario that many still think unthinkable: open warfare, in which either the industrial West as a group, or the U.S. going it alone, gives up trying to work with OPEC and instead invades the oil fields.

The fact is that the dislocations caused by OPEC are the greatest ever seen by the industrial world. The capture of the supply of oil by OPEC—that is, its new-found ability to dictate not only price but also availability—means that the U.S. may have to pay $100 billion for its oil by 1985 and $200 billion by 1995—a sum so incredibly high that it may be nearly impossible for the country to ante it up unless a tremendous decline in the standard of living takes place. OPEC's new ability to control oil supplies and prices will prove deflationary for the entire world because OPEC surpluses will continue to pile up indefinitely, draining the world of its wealth, while the number of outlets for investing the cash through recycling shrinks. And without that recycling, the cash cannot be turned into real economic activity, and growth, employment, and living standards must decline around the world.

In some ways, the most stunning aspect of the oil mess is how dimly its potential ramifications are seen in Washington and in other capitals of the industrial West. The 1974 oil price rise stunned the West and cast the industrial economies into the worst recession in postwar years. Yet the world economy recovered, and Western leaders began to think once again of OPEC as a tamed tiger, one with the potential for inflicting mass devastation on the world economy, but one unlikely to do so.

It is generally believed in Washington and in the capitals of Europe that economic and financial conditions are much sounder now than they were in 1974–75. The OPEC oil price rise of 60 percent thus far in 1979 is much smaller than the original fourfold jump, and the relative size of the oil-importing countries' economies is larger. Washington monetary officials argue that the impact of the OPEC surplus, estimated at only $33 billion for 1979 and $36 billion for 1980, is far smaller than the $70 billion of 1974 and the $50 billion of 1975.

Moreover, optimists believe that the balance-of-payments position of much of the world is better now than in 1974–75. The U.S. deficit is shrinking, they point out, and the huge surpluses of Germany and Japan are fast disappearing. Even more important, they argue, the payments positions of Italy and Britain are much stronger. "The balance-of-payments position of the major countries are in much better shape," says Otmar Emminger, president of the German Bundesbank. "The U.S., Japan, and Germany are moving into equilibrium. And where France, Britain, and Italy had a combined deficit of $22 billion in 1974–75, France and Britain are only slightly in deficit today, and Italy is running a large surplus." Ironically, even the chaos in the gold markets is helping many European countries. The rise in its price from $150 in 1974 to about $400 recently has doubled or tripled that component of reserves held by governments and could be used to pay for higher trade deficits.

The optimists also believe that the recession this time around will be much milder than 1974–75. They argue that there will be no synchronous worldwide fall into recession, and while the U.S. may slide down into the trough first in 1980, Europe will slow down and follow the U.S. out later in the year. In fact, some economists don't expect any recession in Germany, Italy, and some smaller countries at all. They cite the coming elections in the U.S. and Germany as major factors that will prevent any plummeting of those economies into dramatic recessions. It is widely believed that both governments will quickly move to stimulate if the slowdown gets too bad. "I doubt Volcker can hold to his tight monetary policy if the recession gets serious," says Norbert Walter, economist at the Kiel Institute in Germany, summing up an almost universally held view in Europe about Federal Reserve Chairman Paul A. Volcker's raising of U.S. interest rates in early October.

If complacency about the world economy is the norm among bankers and government officials, it is rife when they turn to the problem of the LDCs. The developing countries are considered to be in a much better position to weather the oil shocks this time around, compared with 1974–75. Their reserves have mushroomed from $30 billion in 1974 to $70 billion last year, and that should prove to be a good cushion to ride out a recession. In fact, Brazil's reserves alone total $10 billion compared with only $4 billion in the first petrodollar crisis, and Korea, at $6 billion, is not that far behind.

The LDCs have also managed to refinance their high-cost debt, taken out years ago at much lower rates. Billions of dollars' worth of loans taken out at 2% or more over the London interbank offered rate (LIBOR) have been refinanced down to one-half of 1% more than the LIBOR, while debt maturities have been extended. All this, of course, has been made possible by the enormous worldwide expansion of liquidity, which is showing no signs of drying up.

The final bit of evidence the optimistic LDC-watchers point to is the impending return of the IMF to center stage in recycling OPEC surpluses to developing countries. In the first oil crisis, the private banking system, led by U.S. banks, played the most important role in petrodollar recycling and pushed the IMF to the sidelines. Now the IMF, strengthened by the new $10 billion Witteveen facility, which provides loans to nations with heavy trade deficits, plans to replace the banks. LDC-watchers hope the IMF will be able to impose "conditionality" on the LDCs—stringent economic and financial constraints that the banks were unwilling or unable to impose during the previous recycling.

But the complacency and optimism about the impact of the new oil crisis on the world of government officials and bankers begins to wear thin at this point. The reason that the IMF is now moving to the fore in an attempt to recycle the new OPEC petrodollar surplus to LDCs is that private banks are so stuffed with old debt that they cannot play a central role even if their profit motives pushed them to do so. U.S., Japanese, and many European banks are being told by their regulatory agencies that it would be dangerous to the health of their national financial systems if the banks took on much more debt from the LDCs. Recycling is now perceived as dangerous.

In the U.S., banks regulatory agencies are already putting the squeeze on U.S. multinational banks to slow down on their lending to oil-importing developing countries. Comptroller of the Currency John G. Heimann has put into place a highly sophisticated surveillance program that it runs jointly with the Federal Reserve and the Federal Deposit Insurance Corp. "We try to categorize countries in terms of socioeconomic problems," says Heimann. "Countries do change, and we regard countries in some categories as having transfer risks." Nations are listed as classified (those already in nonpayment), weak, moderately strong, and strong. The lists are used to measure bank diversification. Any bank exceeding its 10% limit of capital on loans to a single government gets a reprimand, and it also receives a warning, even if it is below the limit, if it piles up credits to a country that is considered a risk. Heimann admits that in 1974 banks plunged into foreign lending so fast the 10% ceiling "got away from us."

The U.S. regulators are convinced that this time U.S. bank lending will be lower. "It will be less on a relative basis than it was the last time around. Recycling has now become much more of an international problem. A lot of recycling has already shifted. It is not so much only a responsibility of U.S. banks," says Heimann.

U.S. banks will not be alone in moving away from recycling. The Japanese Ministry of Finance told its leading banks on Oct. 22 to "exercise caution" in their foreign lending. In the past two years, Japanese bank loans to foreign customers have tripled to nearly $30 billion, with more than half placed with LDCs. Brazil, in particular, is singled out as having received perhaps too much Japanese bank credit. In recent years, Japanese banks have lent Brazil $4 billion, and "that's too much," says Tsuneo Fugita, a ranking foreign-exchange official at the finance ministry.

The entire shift of recycling away from the private banks toward more multilateral action is seen as extremely positive by government officials. In addition to government regulatory policy, they see the Volcker anti-inflation package of Oct. 6 sending interest rates skyrocketing in the Euromarkets, pushing more and more LDCs away from the private markets toward the IMF. "A very tight monetary policy in the U.S. and elsewhere must have an impact on the international markets," says a Bundesbank official. "Some short-term rates have been between 16% and 18% for dollar credits already. That means some countries will be unable to pay those rates and will have reached the limits of their creditworthiness. Those countries must then go to the IMF, but since the IMF can impose conditions on these countries, it will in the end be a good thing."

That end may be something very different from that imagined by the German official. Conditionality is the very thing that developing countries—and industrial nations as well—avoided during the first petrodollar crisis. IMF conditionality means extending loans only when stringent fiscal and monetary policies are put into place by governments, and while that is great for creditors, it does have one other important consequence: It cuts economic growth drastically and kills trade markets for both developing and industrial countries alike.

Conditionality may prove to be only the beginning of the LDCs' problems. The permanent petrodollar crisis is certain to deepen their already huge balance-of-payments deficits well into the 1980s. Even before OPEC begins to raise oil prices again in December, the current accounts deficits of oil-importing LDCs will shoot up to $55 billion in 1980 from only $45 billion in 1979 and a much smaller $36 billion in 1978.

Beyond that, many LDCs, especially the higher-growth countries such as Brazil, are swamped in a quagmire of debt. The bank lending five years ago that saved the LDCs from collapse is now a crushing burden. Developing countries are entering the next period of heavy trade deficits with $300 billion in debt and enormous debt-servicing requirements. With interest rates rocketing up in the Eurodollar markets as a consequence of the U.S. attempt to fight its own oil-induced inflation, developing countries are being forced to spend huge sums on old

debts, just at the time when they must take on all the new debt. Brazil, for example, has to pay on its mammoth $52 billion debt, an amount that is equivalent to a 15% rise in oil prices every time the LIBOR for Eurodollars goes up just 1%. The LIBOR has jumped 4% in recent months to match OPEC's entire price rise for the year.

A SYNCHRONIZED SLUMP

And Brazil is not alone. Debt service payments have raced ahead of exports in 75% of all oil-importing countries from 1973 to 1978, including the Philippines and Pakistan. In fact, debt grew 2½ times faster than exports in more than half of these countries. Only South Korea remains an exception to the rule, with the country's external debt position improving for most of the past five years. But political uncertainty resulting from the murder of President Park Chung Hee casts doubt over the future stability of that nation.

Just as the optimistic scenario for the LDCs begins to fade once the harsher realities are faced, so, too does the bright picture for the industrial countries begin to dim as the world enters the new petrodollar crisis. The key is the deadly combination of ever-higher oil prices and the tightening of U.S. monetary policy under Fed Chairman Volcker. Both events are extremely deflationary, perhaps more so than most government officials and economists now admit. "The situation is set for a synchronized slump like 1974–75, only this time it could be much more long-lasting," says Kevin J. T. Pakenham, executive director at Amex Bank in London. "Volcker's actions will lead to a credit crunch in the U.S. that will spread to all industrialized countries. One consequence will be to dampen capital investment severely. The prospect of continued high real oil prices and a tight monetary squeeze could shatter business confidence."

If the rising price of oil turns out to be a great deal more deflationary than anticipated, nearly all of Europe could tip into recession in 1980. "Not Germany, but France, Belgium, the U.K., and possibly Italy risk having negative growth rates at some point next year," says J. Paul Horne, European economic analyst at Smith Barney in Paris. "I am more pessimistic than most, certainly more than the OECD."

But the oil crisis this time around goes far beyond recession. OPEC's ability to control oil supplies and price oil ahead of inflation virtually guarantees that it will continue to drain the world to a degree unseen in modern history. The structure of world trade and finance is being wrenched and twisted around the ever-growing pile of surplus OPEC petrodollars that have nowhere to go and are under the control of a very few sheiks.

Already there are signs that the global economy is beginning to crack up. Governments are putting national interests above international concerns. The leapfrogging of oil price rises ahead of inflation ensures continuous expansion of trade deficits that must be paid for by ever-higher levels of debt or massive expansion of exports. For the decade ahead, protectionism and trade wars on a scale not seen since the interwar years may be in the offing. In fact, it just may be that sometime in the mid-1970s a trade war actually began, and no one has yet realized it. From 1973 to 1978, every industrial nation, including the U.S., began to fight for a larger piece of the world trade pie to pay for energy and cover growing balance-of-payments deficits. In France, exports as a percentage of the gross national product rose from 17 percent to 20 percent, in Germany from 23.4 percent to 27.1 percent, in Britain from 23 percent to 29 percent, in Japan from 10 percent to 11 percent, and even in the U.S. from 6.7 percent to 8.5 percent.

TRADE WARS

"All the major industrialized countries greatly increased their exports after 1973 to help pay for the costs associated with the rise in oil prices," says Roland Leuschel, an economist with Belgium's Bank Bruxelles Lambert. "The question is, where are they going to find the markets this time? The Arab governments remember too vividly what happened in Iran as a result of modernizing too fast. The industrialized countries, especially in Europe, are unlikely to accept a flood of imports from developing countries when unemployment is high. And Europe cannot count on selling a lot to the Eastern bloc because it is also reaching its borrowing limits. For both political and economic reasons, OPEC cannot absorb as much this time."

If a trade war has already begun, all the assumptions built into the mammoth $130 billion bank lending to the LDCs in recent years—based on their projected expansion of exports to pay for the debt—may be wrong. The exports may never appear because of lower trade growth and protectionism. And that would leave the banks, especially the U.S. banks, which have been the largest lenders to LDCs, with nonpaying assets on their books that would have to be written off.

In the world of international finance, the cracks will begin to show very shortly. Recycling such a huge amount of cash this time around is going to have to be done within a dollar-based global financial system that is perhaps terminally sick and certainly much weaker than it ever was back in 1974–75. The erosion of confidence in the dollar has reached the flash point. Only the dollar-rescue plan that Volcker unveiled on Oct. 6 kept the currency from sinking out of sight—the second close save in less than a year. A flight away from the dollar on a relatively modest scale is already occurring as Mideast central banks join with other central banks and rich individuals around the world in moving into other currencies. But oil is paid for in dollars, and the entire recycling process must therefore be conducted in dollars. If oil producers begin to accelerate their diversification out of dollars, the system will collapse. "We are very close to the verge of an international financial crash," says Yves Laulan, head economist of the Société Générale's research department. "Money is nothing but trust and confidence. If nobody trusts the Eurodollar markets any more, they [the depositors] will move out and the whole thing collapses."

Diversification is not the only threat to successful petrodollar recycling. Another major shock to the dollar can easily bring on capital controls in the U.S., and that could trigger the feared trade wars of yesterday. "I am very much concerned that some countries, including the U.S., will turn to capital controls," says a Bundesbank official. "It would be disastrous. It is easy to see how they can start but not where it would end. Capital controls are often the first step toward trade controls."

Unfortunately, with OPEC continually raising the price of oil ahead of inflation, it is hard to see how the U.S. can successfully defend the dollar forever. If a crisis is reached in the near future, it will probably be after the U.S. and Europe fall into the trough of recession and begin to reflate themselves out. If inflation is not dampened down substantially by then—and it hardly looks as though that is going to occur—a blast of inflationary pressures could send the dollar sinking like a stone, triggering off controls and whatever follows. "The real dilemma for the U.S. will occur when we try to revive the economy," says Henry Kaufman, a partner at Salomon Bros. "If inflation is still very high at that time and the dollar comes under pressure, any government in power will have to choose between continuing to maintain the dollar as the major reserve currency or maintaining growth at home. I do not think any government will sacrifice domestic interests for international interests."

There are very few options left for the U.S. and the rest of the world in dealing with the new oil crisis. By controlling not only energy supplies but the direction of capital and wealth in the world, OPEC is quickly shifting the entire balance of power in the global arena. The ever-upward ratcheting of real oil prices in the face of a recession in the West belies the notion that OPEC would always act rationally and never harm the international economic system of which it is a part. Internal politics within the Middle East and a long history of antagonism with the West provide the rationale behind actions on the oil price front that could perpetuate decades of stagflation for the U.S., Europe, Japan, and most of the oil-importing LDCs.

Political and military alliances between the U.S. and the Saudis and other Middle East oil producers have not resulted in more oil being produced. At best, they have put a floor on the decline in production. Conservation at home will help only to a limited degree. Much lower growth seems the only answer to lower oil consumption—and that would be political, if not economic, suicide.

By capturing control over the supply of oil, OPEC has gone even further along the road to world domination than it did in 1974, when it sharply raised global energy prices. Increasingly, it controls the direction of wealth in both industrial and developing countries and holds both the political and economic future in its hands.

Europe and Japan have been moving away from the U.S. in recent years to make their own arrangements with OPEC, just in search of securing their energy lines. If OPEC controls not only energy but also capital and real wealth, the breakdown of the Western alliance and a restructuring of the Western economy is clearly only years away. Only energy-efficient, export-oriented countries with access to OPEC's oil and capital will be able to survive and prosper, and then only if OPEC proves willing to provide enough energy and capital to keep the world growing.

CONTROLLING CAPITAL

Again and again, as OPEC pushes the West toward the edge of economic survival, the option of a military response becomes more and more reasonable. As one monetary official put it recently: "OPEC price actions are really getting out of hand. If they don't call for a military response, I wonder what would. I don't know what would happen if we intervened militarily. I hope some intelligent people are discussing this seriously, so that if we have to act we won't go off half-cocked. I don't see much danger of crippling damage to the oil fields. Even if there were sabotage, it would have very temporary effects in the Arabian peninsula, where you can strike oil with a hatpin. I don't think many other OPEC countries would dare to shut down for very long, if at all, in the face of a determined, united NATO military action"

EXHIBIT 1

ADDITIONAL VIEWS OF SENATOR DURENBERGER

During the markup of H.R. 3919, the Finance Committee decided several major issues by narrow margins on roll call votes that were generally interpreted as divisions between senators who represented oil producing states and those who represented consuming states. No on can deny that crude oil price decontrol and the windfall profits tax result in significant interstate and interregional transfers of wealth. However, as one senator who voted both for amendments to increase the tax rate and amendments to exempt several categories of oil from the tax.

I would say to my colleagues that the legislation here reported reflects a division more fundamental than a producer/consumer dispute over the distribution of oil and tax revenues.

Throughout the debate, representatives of the oil industry have maintained that world prices and the revenues from decontrol are necessary elements of a strategy to produce our way out of the energy crisis. Proponents of the tax including the administration advocate high prices to encourage conservation and conversion to alternative energy resources, but do not believe that additional domestic oil production will be a significant factor in achieving energy independence. It is a difficult question to judge and neither side deserves plaudits for the case they have presented. Advocates of the tax concentrate on the "undeserved" character of the profits that result from the OPEC price, while ignoring the supply response from additional investment. Opponents seem to believe that an unlimited amount of money can be invested in exploration and drilling with each new dollar having the same productive result as the last.

Without ever explicitly stating its judgment, the committee has authored a bill which reflects a decided opinion on the future of domestic oil production in our energy supply. By voting to exempt new oil and incremental production through tertiary recovery, we have concluded that additional domestic production will come only at a very high price. By maintaining high tax rates on lower and upper tier oil, the committee majority has acknowledged that the supply response to decontrol will be minimal and does not require the financial support of extraordinary cash flow from existing wells. By diverting oil revenues to conservation and alternative energy tax credits, we have recognized that conservation and renewable energy resources will be cheaper than domestic oil at the world price. The judgment that new domestic oil production will not play a significant part in achieving energy independence is more fundamental to the structure of the committee bill than any producer/consumer dispute over income distribution.

Although I concur in the judgment of the majority on this question, I am not unmindful of the caution raised by thoughtful individuals in the oil industry who rightfully point out that this legislation has the potential for self-fulfilling prophecy. We did not design this legislation to punish the industry nor to raise revenues for government programs, but rather to capture the OPEC tax without discouraging production. The committee has a responsibility to monitor drilling and recovery rates and to make certain that this legislation does not lead to undercapitalization that wastes precious resources.

Today, the world crude oil price is basically a tax collected by the OPEC cartel from consuming nations. As President Carter's decontrol program is phased in, this tax will be collected by American oil producers from American oil consumers. Even though the world price does not reflect the cost of production at existing domestic fields, we will have to pay much higher prices for new oil in the future as our easily produced reserves are depleted. Over the next decade decontrol and the windfall profits tax can provide the foundation for a gradual adjustment to the new, high cost of energy.

All parties essentially agree that the adjustment should include programs to assist those who cannot afford the OPEC tax and to encourage energy conservation and conversion to new and renewable energy resources. President Carter, the House Ways and Means Committee and the Senate Finance Committee have all proposed one or more trust funds to be created with the revenues from the windfall profits tax for these purposes. I opposed the trust fund concept in committee.

I believe that the committee deliberations on this legislation are sufficient evidence to demonstrate the flaws in a trust fund for energy security. At one point the committee had adopted $99 billion of energy tax credits—all of which would have reduced oil imports—but believed that it had only $65 billion in revenues from the tax. The credits were cut to $25 billion. Later the price assumptions on which the revenue estimates are based were changed and the committee found that its tax would raise $138.2 billion. It quickly added new tax credits—none of which would reduce oil imports or go to oil users—and a trust fund to rollback social security taxes. Frankly, it is very difficult to project the revenues that will result from the tax or the spending that is necessary to achieve energy security. In any event, there is no cause and effect relationship between the two. The tax should fairly reflect the economics of the industry and the revenues from the tax should not limit our efforts to achieve energy security at an early date.

TAX CREDITS

The committee bill includes a number of new tax credits and other incentives with tax effects to encourage the production of alternative fuels and the conservation of our remaining oil reserves. It is my hope that the Senate will not be put in the position of choosing between these tax credits and bills reported by other committees that authorize direct appropriations, loans and loan guarantees for the same purposes. However, should the debate develop along these lines, I will be counted among the dedicated advocates of the tax credit approach.

This issue is more than an intramural contest between committees for jurisdiction over energy legislation, H.R. 3919, as reported by the Finance Committee puts the American public rather than the federal government in charge of our energy policy. Coupled with decontrol of oil and natural gas prices this broad program of tax credits will allow the marketplace decisions of energy producers and energy consumers to choose the most efficient mix of conservation and fuel resource in response to our rapidly changing energy condition. Although the marketplace would eventually achieve the most efficient allocation of resources without the credits, the incentives are needed now to assure that the adjustment will be gradual and come at an early date.

Tax credits are not without problems, however. The public is neither well-informed as to the availability of the credits, nor well-equipped to use them for maximum advantage. The Energy Tax Act of 1978 is presented as a three page IRS form that must be specifically requested before it comes to the attention of the taxpayer. Credits provide no incentive for those who do not pay taxes and qualifying investments may not be within the reach of those with low and moderate incomes. Furthermore, to the extent that these incentives are successful, consumers will be faced with a wide variety of new products, but little guidance as to the efficacy of particular items. If our energy future is to be determined by the choices of individual producers and consumers, and I am fairly convinced that it should be, the committee and the Congress have a responsibility to address and resolve the special problems of the incentive approach.

TRANSPORTATION CONSERVATION

The incentives for conservation and conversion to alternative energy resources contained in the committee bill focus on the residential, commercial and industrial sectors. We did little that would influence the future demand for transportation energy. Although I supported our decision to dedicate a portion of the tax revenues for transportation, I do not believe that these monies would be wisely used if put in a new trust fund for urban mass transit. Transportation conservation offers many other possibilities, including long-distance passenger rail service, carpooling, vanpooling and new vehicle technologies. I hope the committee's action in this regard will be interpreted as a broad mandate for energy conservation and not as a narrow commitment to a particular mode of transport.

INCOME ASSISTANCE

The most difficult decisions taken by the committee were related to the issue of income assistance and even now, with the bill reported, a solid consensus remains elusive. There is no division on the need for the program. Daily reports of advancing energy inflation put that question beyond doubt. However, this committee with long experience in assistance programs found that it could not acquire the information necessary to bring this problem into sharp focus and, thus, make it accessible to solution. The two-part package of cash payments and tax credits assures that both social equity and individual need are reflected in national energy policy, but the specific mechanisms for allocating those benefits among citizens will require further deliberation.

The cash payments program for low income households is intended to guarantee that every household has sufficient resources to meet its basic needs. Without such a program, the "heat or eat" decision will become a daily part of life for millions of Americans. But identifying which Americans and the extent of the need in individual cases was beyond the competence of the committee because we are not informed as to the energy consumption characteristics of low income households and cannot reach a large portion of the population in need—particularly the elderly—with existing Federal assistance programs. We can correct the information problem with additional study and legislation in the next session. We have provided a state block grant option with broad definitions of eligibility to achieve maximum participation.

To some extent the income assistance portion of this legislation works at cross-purposes with the tax incentives for conservation and fuel conversion. This is particularly true of the credits for low and middle income families designed to offset the high cost of energy. Because these credits are based on volumetric consumption, they provide a subsidy for higher levels of energy use as Senator Danforth has ably and consistently stated. However, without these credits, American families of low and moderate income are left defenseless against an energy inflation that is affecting all fuels and too rapid to allow gradual adjustment. I support the tax credits as a short-term measure to provide equity for those not able to afford rapid adjustment and not eligible for programs of cash assistance.

These views are as much an agenda for additional action as they are a personal explanation and appeal on specific issues. H.R. 3919 deserves the support of every Senator but that support should serve as the foundation and not the capstone of our national energy policy. It is a good start, but nevertheless only a start, on a decade that will fix the pattern of our energy future.

A LARGE ERROR

Mr. PROXMIRE. Mr. President, on October 25, the Federal Reserve Board announced that there had been a $3.7 billion error in the money supply sta-

tistics that were published for the first 2 weeks of October. This error is cause for concern since the Federal Reserve is responsible for controlling the growth of the money supply. Certainly if the Federal Reserve cannot measure the money supply accurately they will not be able to have firm control of its growth. Moreover, if the public is watching the money supply statistics as a guide or indicator of the Federal Reserve's policy they may be pointed in the wrong direction if the money supply statistics are subject to periodic large errors. Such mistakes could be quite costly if financial decisions are based on incorrect data.

On October 26, I sent a letter to Chairman Volcker at the Federal Reserve Board indicating my concern about the large money supply error and asked that he provide the Banking Committee with a thorough explanation for the $3.7 billion error, an indication of the steps that will be taken by the Board to avoid such errors in the future, and the Board's assessment of the costs of this error on the financial markets.

Mr. President, I have received a reply from Chairman Volcker and would like to have it, along with my letter of October 26 to the Chairman, printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. Mr. President, Mr. Volcker's letter indicates the following:

First. The changes in monetary policy made on October 6 were taken before the errors in the money supply data occurred and, therefore, the errors had nothing at all to do with those policy measures.

Second. The money supply errors arose because a single bank, Manufacturers Hanover, had incorrectly reported its deposit data to the Federal Reserve Bank of New York. The reporting errors at Manufacturers Hanover and their later corrections resulted in a downward revision of $700 million of the money supply for October 3, a revision downward of $3.0 billion for October 10, and a further downward revision of $800 million for the week ended October 17.

Third. The revisions in the money supply figures had virtually no impact on the level of nonborrowed reserves the Federal Reserve was providing to the market through open market operations in this period. Money market conditions tightened during this period as banks did actively for limited supply of funds.

Fourth. Although it is difficult in evaluating financial conditions to separate the impact of the money supply announcement from pressures being generated by strong credit demands, market reactions to the revision of the money supply data indicate that the financial markets were reacting to basic economic forces throughout the period to a far greater degree than to the weekly supply statistics.

Fifth. The Board is reviewing its procedures for editing incoming deposit data and has already made interim changes in those procedures. In the future Chairman Volcker anticipates a considerably greater amount of reverification of data that will, in the end, prove to be accurate.

Mr. President, the weekly money supply numbers are not a good indicator of monetary policy. Each Federal Reserve Chairman in the past 10 years has cautioned the public against paying too much attention to those data. The new policy procedures focus attention on growth in nonborrowed and total reserves. Data on these measures should be taken into consideration in watching monetary and financial developments.

Mr. President, I want to note in closing that the Federal Reserve Board announced last night that it has begun an inquiry with the help of outside counsel, to provide assurance that the recent errors in the money supply data were inadvertent and that no individual or institution obtained improper advantage from the preparation, revision, and release of the incorrect money supply data. I expect to receive a report on this investigation as soon as it has been completed.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., October 26, 1979.

Hon. PAUL A. VOLCKER,
Chairman, Board of Governors of the Federal Reserve System, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to you to express my shock and concern with the announcement last night that a $3.7 billion error had been made in estimating the basic money supply for the first two weeks in October. I would like you to provide the Committee with a thorough explanation for this error, an indication of the steps that will be taken to avoid such errors in the future, and the Board's assessment of the costs of this error on the financial markets.

The magnitude of this error is a serious problem. However, the more serious factor is that the error occurred during a period when the financial markets were adjusting to strong monetary measures imposed by the Board to restrict the growth of money and credit. There is little doubt that the previously announced large increase in the money stock was interpreted to signify the need for further restraint which translated into unsettled market conditions, and possibly into very large losses for some in the money and stock markets.

When you appeared before the Banking Committee on October 15, 1979 to discuss the Fed's changes in policy, we had a discussion of the appropriate indicator to monetary policy now that the Federal funds rate was to fluctuate more widely. Your response was that observers of policy should watch the money supply numbers recognizing that there could be some fluctuations. When pressed about other indicators, such as bank reservers and credit, you said "Well, you can look, at that, too, but I would suggest that the principal means by which you can follow the effects of our policy are through analysis of the various monetary measures."

If it is still your view that the money supply data are the principal indicators of monetary policy, the Federal Reserve must take steps to make sure that the money supply data released each week are accurate. Large errors such as those that lead to the revisions announced yesterday, cannot be tolerated. I would appreciate your prompt attention to this matter.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

FEDERAL RESERVE SYSTEM,
Washington, D.C., November 7, 1979.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN PROXMIRE: Your letter of October 26 raised several questions about the recent reporting errors in money supply statistics. I am glad to take this opportunity to provide an explanation of the error, an indication of corrective steps we have taken, and to appraise the costs on financial markets.

The recent large error in the reported money statistics has been an unfortunate and regrettable source of confusion, particularly coming as it did so shortly after the Federal Reserve had introduced new techniques in open market operations. Because of the confusion, I would like to stress first that the errors had nothing at all to do with the measures announced on October 6. Moreover, subsequent operations under the program would not have been significantly different if the correct figures had been known at all times.

When the program was adopted on October 6, the last published data at hand were for the week of September 26. In addition, partial data were available for the week of October 3. These partial, unpublished figures suggested that money supply might decline a little from the preceding week, but these preliminary data are given very little weight for they often display a different movement from more complete data. In the event, the more complete data for the banking system for the week of October 3, which became available to us on October 10 and 11 (and were first published on October 11), indicated that the money supply expanded by $2 billion. A large expansion was sustained for that week, despite the subequent downward revision of $700 million in Manufacturers Hanover deposit figures, partly because of other revisions made on October 18.

The figures for the week of October 10, first published on October 18, showed a large further increase of $2.8 billion; it was these data that on October 25 were revised sharply, primarily reflecting a $3.0 billion error in the figures reported by Manufacturers Hanover. On that latter date, the money supply for the week ended October 3 was also revised down by $700 million as a result of reporting errors for that bank. On October 29, Vice Chairman Schultz announced, in his statement before the House Banking Committee, that Manufacturers Hanover had indicated that its data included in the money supply for the week ended October 17 might be revised down by $800 million.

On November 1, mainly reflecting revisions from Manufacturers Hanover, the money supply for the week ended October 17 was, in fact, revised downward by $700 million. However, despite the downward revisions in the figures reported for the weeks of October 3, 10, and 17, the average level of the money supply remained high—running substantially above the September level in the first half of October.

Consequently, it seems evident that during that period the demand for money had remained relatively strong in face of our efforts to limit the supply of reserves. As a result, money market conditions tightened, as banks bid actively for the limited supply of nonborrowed reserves provided through open market operations and also increased their borrowing from the discount window.

The revisions in the money supply figures had virtually no impact on the level of nonborrowed reserves the Federal Reserve was providing to the market through open market operations in this period. That level had been determined essentially by calculations of the reserve path needed to attain desired growth in the monetary aggregates over the

final quarter of the year as a whole, not by movements in the money supply data for an isolated week or two.

The Board has always stressed that market participants and others should not give undue attention to weekly money supply data. That obviously needs to be underscored again—especially under current circumstances when, within broad federal funds rate limits, the provision of reserves consistent with longer-run monetary aggregate objectives is the focus of day-to-day policy. Our new approach would, if anything, make operations even less sensitive to weekly money stock variations than our former approach.

With regard to the possible effects on financial markets of the money supply revisions, it should be clear from the preceding chronology that the Manufacturers Hanover error could not have had an influence on the sharp interest rate rise and drop in stock prices that immediately followed announcement of the program when the markets opened on October 9.

The particularly large error was for the week ending October 10, but those figures were not first published until Thursday, October 18. Even the figures for October 3 were not published until October 11. The subsequent $700 million error in that figure, related to Manufacturers Hanover, was largely offset by other revisions in the data for that week and was not so large in itself as to be outside the range of prior revisions of the weekly data.

Any influence the reporting error might have had on financial markets would be subsequent to October 18. It is true that the Dow Jones Industrial Average declined about 15 points on the following day and interest rates rose sharply. However, at that time the federal funds rate also rose to the 15 percent area in reflection of the gathering constraint on nonborrowed reserves, a constraint that was needed because nonborrowed reserves and other reserve measures—total reserves and the monetary base—had been running high in the first half of the month relative to the path needed to slow growth in money supply over the fourth quarter.

It is most difficult, if not impossible, in evaluating financial market conditions to separate the impact of the money supply announcement from pressures being generated by strong demands for credit, money, and bank reserves relative to supply. It might be noted, in that respect, that the stock market did not show any significant recovery immediately after the money supply figures were corrected on October 25, as might have been expected if the erroneous figures had been a significant but identifiable negative influence.

Some sensitive interest rates did decline after the revision, though not by as much as they had risen a week earlier, and part of that decline was subsequently reversed despite the downward revisions in the data for the week ended October 17 in our regular publication on November 1. Thus, over the period it seems clear that markets, fundamentally, have been reacting to basic economic forces. During this period, incoming data on prices as yet showed no abatement in the rate of inflation, surprisingly strong data on economic activity was published in the course of October, and the Federal Reserve policy of restraint on bank reserves relative to demand placed pressure on money market interest rates.

The source of the errors was a change in internal procedures associated with the introduction of a new computer system at Manufacturers Hanover Bank on October 1. As a result of this change, their report of daily deposits—data that eventually enters the money supply statistics—was later determined to be inaccurate, principally because of misclassifications among deposit categories.

These errors were not picked up by the routine daily screening procedures at the Federal Reserve Bank of New York primarily because the daily deposits data of Manufacturers Hanover, as a large and active "clearing" bank, are ordinarily highly volatile. However, Federal Reserve staff began checking with the bank on aspects of their data flow as early as October 12, in particular the weekly report from the bank showing demand deposits due to foreign banks for the week ending October 10. At that time, the bank affirmed the accuracy of the unpublished figure that they had reported on demand deposits due to foreign banks.

Early on October 18, nationwide data for all weekly reporting banks became available, and these data contained an unusually large increase in demand deposits due to foreign banks in New York City for the week of October 10. That morning staff again checked with Manufacturers Hanover, since that bank reported the bulk of the increase. The bank at this point indicated that deposits due to foreign banks should be revised downward by about $1 billion, a change that had the effect of reducing our calculation of the money supply for the October 10 week to be published that afternoon. The bank was then asked if their other data entering the money supply—that is, the daily deposits reports that are the basic building blocks of the money supply series—were correct.

As indicated, these data had passed our edit checks, but the error in the report on foreign deposits led the staff to make a further inquiry. The bank said the daily deposits were correct. In the light of that assurance, the national figures for the week ending October 10 were published on the afternoon of October 18, after adjusting for the $1 billion error found in foreign deposits. The indicated increase in the money supply—$2.8 billion—was sizable even after the $1 billion adjustment, but clearly not "impossibly" large in light of the sometimes erratic nature of the series.

Staff nevertheless continued their investigation of the Manufacturers Hanover statistics and subsequently discovered inconsistencies in the data reported on two different forms that could not be reconciled. After this discrepancy was brought to the bank's attention, the bank on Monday, October 22, indicated a large revision might be necessary for the week of October 10.

On Wednesday, October 24, the staff received reasonably certain data indicating large downward revisions. After further verification, the revised figures were promptly published in the money supply release issued Thursday, October 25. During the following weekend a further $800 million revision in the data for the week ending October 17 was reported to us, and as I have noted, this possible change was announced early Monday morning, October 29.

To ensure that there is no repeat of such large and unfortunate reporting errors, we are reviewing—and indeed have already made interim changes in—our procedures for editing incoming data. These changes will undoubtedly involve higher costs at the Reserve Banks and member banks. The amount of contact between staffs of Reserve Banks and member banks will increase, and I would anticipate a considerably greater amount of reverification of data that will in the end prove to be accurate.

I must point out that, despite these efforts, no data flow system can be entirely safe from human error, and that in the short-run the Federal Reserve can do no more than ask banks to carefully recheck data that appear unusual. In this regard, I should note that Manufacturers Hanover—which has employed outside auditors to recheck their data—has advised the Federal Reserve that some further revisions in their October data, thought at this time to be minor, may soon be forthcoming. Such revisions, if they materialize, will be promptly reflected in the published data.

I fully appreciate your concern over this matter, which I share. I trust this letter clarifies the question involved.

Sincerely,

PAUL.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, of course, every Member of this body is aware of the Holocaust, that terrible act in which 6 million Jews perished at the hands of Nazis. There is no need to go into the gruesome details of that most heinous crime. Let it suffice to say that no one here would ever want to see such a horrible event occur again.

But in Cambodia today, a similar act is taking place. The Cambodian people are being allowed to die. They are sick and starving. Food and medical supplies have been cut off. It is estimated that over 3 million men, women, and children have already perished, and no end is in sight.

One important question is, how did the killing begin?

Mr. President, I do not think there are any fully satisfactory answers to that question. Perhaps future scholars will put these awful events in some historical perspective. The more important question for us is what we can do to prevent future Cambodias from occurring.

One thing we as Members of the Senate can do is ratify the Genocide Convention now. In ratifying the Genocide Convention, our Nation will not only officially take a stand, but we will help focus attention on the world's outcry against the violations of the most basic of human rights taking place in Cambodia and elsewhere. It is impossible to give too much publicity or attention to the Cambodian situation. The international outrage resulting from the mass murders in Cambodia can never be too great.

Mr. President, the strongest possible international commitment is necessary to combat genocide. The United States must remain a world leader in this fight. We must assert our leadership by ratifying the Genocide Convention and bring events such as Cambodia even more forcefully into the international conscience.

Mr. President, I thank the majority leader and yield the floor.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:40 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1037. An act to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits;

S. 1728. An act to designate the United States Federal Courthouse Building located at 655 East Durango, San Antonio, Texas, as the "John H. Wood, Jr., Federal Courthouse";

H.R. 4955. An act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia; and

H.J. Res. 68. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 184. Concurrent resolution providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws."

At 3:24 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the bill (S. 673) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PRICE, Mr. CHARLES H. WILSON of California, Mr. DAN DANIEL, Mr. CARR, Mr. STUMP, Mr. BOB WILSON, Mrs. HOLT, and Mr. ROBERT W. DANIEL, JR., were appointed as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes; agreeing to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ADDABBO, Mr. FLOOD, Mr. GIAIMO, Mr. CHAPPELL, Mr. BURLISON, Mr. MURTHA, Mr. DICKS, Mr. WHITTEN, Mr. EDWARDS of Alabama, Mr. ROBINSON, Mr. KEMP, and Mr. CONTE were appointed as managers of the conference on the part of the House.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 209. Concurrent resolution authorizing the Clerk of the House of Representatives to correct the enrollment of the bill H.R. 4930.

At 5:47 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House insists upon its amendments to the bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. UDALL, Mr. RUNNELS, Mr. MILLER of California, Mr. GUDGER, Mr. LUJAN, and Mr. MARRIOTT were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 440. Joint resolution further continuing appropriations for the fiscal year 1980, and for other purposes.

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by its title and referred as indicated:

H.J. Res. 440. Joint resolution making further continuing appropriations for the fiscal year 1980, and for other purposes; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 184. Concurrent resolution providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws"; to the Committee on Rules and Administration.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 13, 1979, he presented to the President of the United States, the folowing enrolled bills:

S. 1037. An act to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits; and

S. 1728. An act to designate the United States Federal Courthouse Building located at 655 East Durango, San Antonio, Texas, as the "John H. Wood, Jr., Federal Courthouse."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2459. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, a report on final allocations of commodities under Title I of Public Law 480 for fiscal year 1979; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2460. A communication from the First Vice President and Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving United States exports to Lebanon; to the Committee on Banking, Housing, and Urban Affairs.

EC-2461. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving United States imports to Canada; to the Committee on Banking, Housing, and Urban Affairs.

EC-2462. A communication from the Vice President for Governmental Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of persons on board and the on-time performance of each train operated by the Corporation for the months of June and July 1979; to the Committee on Commerce, Science, and Transportation.

EC-2463. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the six month review of Program Implementation of the Highway Bridge Replacement and Rehabilitation Program; to the Committee on Environment and Public Works.

EC-2464. A communication from the Assistant Secretary of the Treasury for Legislative Affairs and the Assistant Secretary of State for Congressional Relations, transmitting, pursuant to law, a report regarding human rights under Title I of Public Law 95-118; to the Committee on Foreign Relations.

EC-2465. A communication from the Assistant Legal Advisor for Treaty Affairs of the Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to November 8, 1979; to the Committee on Foreign Relations.

EC-2466. A communication from the Assistant Attorney General for Administration, transmitting, pursuant to law, a proposed new system of records for the Department of Justice under the Privacy Act; to the Committee on Government Affairs.

EC-2467. A communication from the Assistant Attorney General for Administration, transmitting, pursuant to law, a report on a proposed new system of records for the Department of Justice under the Privacy Act; to the Committee on Governmental Affairs.

EC-2468. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the second report to the Congress on the National Center for the Prevention and Control of Rape; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SASSER:

S. 2000. A bill to repeal the carryover basis provisions of the Tax Reform Act of 1976; to the Committee on Finance.

By Mr. DOLE:

S. 2001. A bill to extend the tax treatment of certain government health provision scholarship programs; to the Committee on Finance.

By Mr. TSONGAS:

S. 2002. A bill to amend the Consumer Credit Protection Act to prohibit the use of the "Rule of 78's" in the computation of the rebate of unearned interest in precomputed consumer credit transactions with terms greater than 36 months; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BIDEN:

S. 2003. A bill relating to the White Clay Creek Watershed in the States of Delaware and Pennsylvania; to the Committee on Environment and Public Works.

By Mr. WILLIAMS:

S. 2004. A bill entitled the "Public Transportation Energy Conservation Act of 1979"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EAGLETON:

S. 2005. A bill to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately; to the Committee on Governmental Affairs.

By Mr. DOMENICI:

S.J. Res. 120. Joint resolution to designate the week of December 2, 1979, as "Respiratory Therapy Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SASSER:

S. 2000. A bill to repeal the carryover basis provisions of the Tax Reform Act of 1976; to the Committee on Finance.

REPEAL CARRYOVER BASIS

● Mr. SASSER. Mr. President, before the year is out Congress must decide the fate of the carryover basis provisions adopted as part of the Tax Reform Act of 1976. I feel that the inclusion of such legislation in the act was a mistake and today I am introducing legislation to nullify that action.

Mr. President, under the old law, capital gains liability on inherited property was the difference between the price for which the heir sold the property and its value on the day it was inherited. Under the carryover basis provisions, the gain is the difference between this sale price and the value of the property when the deceased person bought it.

Obviously, this longer time period would result in a greater gain and a greater gain would mean a higher tax. In the case of a farm or a small business that may have grown over a period of decades this difference is considerable. Add to this even a small amount of inflation and the difference can be staggering. Taxpayers are put in the position of being able to leave much less to their children.

When someone dies, generally his or her estate faces substantial obligations. The person's debts, estate and inheritance taxes, and administrative expenses must be paid soon after death. Often part of the estate must be liquidated just to provide cash to meet these obligations. Carryover basis exacerbates the cash shortage by adding the additional obligation of capital gains tax liability.

Carryover basis is also extremely complex. It can defy even the most sophisticated tax expert. Collecting information on the values of assets—many of which have been held for decades or a lifetime—is difficult if not impossible. The most conscientious taxpayers have difficulty maintaining good records. The problem a generation later is still more difficult.

This complexity is not limited to estates that incur large capital gains. Each person owning property, no matter how little, must keep detailed records available to survivors at death.

The problems of carryover basis are not limited to individuals. Small businesses and family farms are also vulnerable. Carryover aggravates the problem of the increasing concentration of wealth and power in fewer and fewer big corporations.

The incentives to start or maintain a family business are greatly diminished. The sale of the business, even to a family member, has been made more costly and therefore less desirable. The alternative to merge the business with a larger publicly held corporation will be made more attractive. Those who inherit farmland originally purchased for a fraction of its present value suffer because the price of the land is often based on its speculative value and not its producing potential.

The legislative history of carryover basis provides a clue as to how this unwise and unworkable measure was enacted into law. There was no House action on the issue at all. There was no consideration of the matter by the Senate Finance Committee or indeed by the full Senate. Instead, carryover basis was brought up in conference between the House and Senate after the tax bill had passed both bodies.

This abbreviated process and lack of deliberation is readily apparent to those in positions to deal with carryover on a day to day basis. In addition to the many individual constituents who have written to me, I have also consulted practitioners in the field. Attorneys, bankers and accountants have all strenuously objected to carryover as impossible to administer. Their complaints range from personal frustration over attempts to apply the carryover rules to concern for the expense carryover basis caused their clients.

These same groups already feel they are suspended in a sea of government rules and regulations they do not understand. They already are crying out for relief from the arbitrary actions of Federal agencies and too often from the Congress. We have a chance to rectify an intolerable situation that we have created.

Mr. President, I supported and voted for action in the last Congress to delay the implementation date of carryover basis to January 1, 1980. I took that position because I felt that the provisions were unworkable. They are still unacceptable and I strongly support a change and urge my colleagues in the Senate to do the same.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsections (a), (d), and (e) of section 2005 of the Tax Reform Act of 1976 (relating to carryover basis), and subsection (a), paragraphs (2) through (9) of subsection (c), and paragraphs (1) and (3) of subsection (r) of section 702 of the Revenue Act of 1978, and the amendments made by those subsections or paragraphs are hereby repealed.

(b) Except to the extent necessary to carry out subsection (d), the Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by those provisions, had not been enacted.

(c)(1) Subsection (c) of section 1016 of the Internal Revenue Code of 1954 (relating to increase in basis in case of certain involuntary conversions) is amended to read as follows:

"(c) INCREASE IN BASIS IN THE CASE OF CERTAIN INVOLUNTARY CONVERSIONS.—

"(1) IN GENERAL.—If—

"(A) there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property, and

"(B) an additional estate tax is imposed on such conversion under section 2032A(C),

then the adjusted basis of such property shall be increased by the amount of such tax.

"(2) TIME ADJUSTMENT MADE.—Any adjustment under paragraph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.".

(2)(A) Section 1040 of such Code (relating to satisfaction of a pecuniary bequest) is amended to read as follows:

"SEC. 1040. USE OF FARM, ETC., REAL PROPERTY TO SATISFY PECUNIARY BEQUEST.

"(a) GENERAL RULE.—If the executor of the estate of any decedent satisfies the right of a qualified heir (within the meaning of section 2032A(e)(1)) to receive a pecuniary bequest with property with respect to which an election was made under section 2032A, then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11 (determined without regard to section 2032A).

"(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

"(1) by reason of the death of the decedent, a qualified heir has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

"(2) the trustee of the trust satisfies such right with property with respect to which an election was made under section 2032A.

"(c) Basis of Property Acquired in Exchange Described in Subsection (a) or (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange increased by the amount of the gain recognized to the estate or trust on the exchange.".

(B) The item relating to section 1040 in the table of sections for part III of subchapter O of chapter 1 of such Code is amended to read as follows:

"SEC. 1040. USE OF FARM, ETC., REAL PROPERTY TO SATISFY PECUNIARY BEQUEST.".

(3) The second sentence of section 2614(a) of such Code (relating to special rules for generation-skipping transfers) is amended to read as follows: "If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided under section 1014(a).".

(d) Notwithstanding any other provision

of law, in the case of a decedent dying after December 31, 1976, and before November 7, 1978, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1954) of such decedent's estate may irrevocably elect, within 120 days following the date of enactment of this Act and in such manner as the Secretary of the Treasury shall prescribe, to have the basis of all property acquired from or passing from the decedent (within the meaning of section 1014 (b) of the Internal Revenue Code of 1954) determined for all purposes under such Code as though the provisions of section 2005 of the Tax Reform Act of 1976 (as amended by the provisions of section 702(c) of the Revenue Act of 1978) applied to such property acquired or passing from such decedent.

SEC. 2. The amendments made by this Act shall apply to estates of decedents dying after December 31, 1976.●

By Mr. DOLE:

S. 2001. A bill to extend the tax treatment of certain government health provision scholarship programs; to the Committee on Finance.

TAX EXEMPTION FOR STUDENT SCHOLARSHIP RECIPIENTS

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to again introduce legislation to prevent the taxation for amounts received by individuals participating in the Public Health Service/National Health Service Corps scholarship program and in the Armed Forces health professions scholarships program.

PROGRAM HISTORY

In 1972, Congress passed legislation that recognized two major areas of concern. First, the health manpower shortage in certain medically needy communities and second, the need to insure that there were sufficient health professionals to care for our military personnel and their families. In that year, the Emergency Health Personnel Act amendments, Public Law 92-585, and the Uniformed Service Health Professions Revitalization Act of 1972, Public Law 92-426, became law. These new laws created two scholarship programs designed to support the training of health professions students in return for certain service commitments. The programs that were authorized were: The Armed Forces health professions scholarship program—AFHPSP—and the Public Health Service/National Health Service Corps scholarship program. The programs have done an admirable job of accomplishing the goal of providing health professionals to underserved communities and to the military.

SCHOLARSHIPS AIMED AT PUBLIC GOOD

It has been said that, "both the scholarship programs are publicly funded programs which have vital social goals. The principal beneficiaries of these programs are intended to be the American people—the taxpayers themselves who will receive the benefit of needed health services. It is essential that these programs remain viable and attractive to students entering health careers so that the public service goals can be achieved."

The Armed Forces health professions scholarship program will have its work cut out—even more so because we have removed one of the more attractive incentives, tax exclusion for the scholarship moneys.

PROBLEMS WITH TAXATION

The Public Health Service/National Health Service Corps is in the same predicament. Having lost tax exclusion status for its scholarship program, it too has experienced difficulties in recruiting students. This situation has occurred only recently and was certainly not the original intent of the Congress.

Subject to certain limitations, the tax code provides that gross income of an individual does not include any amount received as a scholarship at an educational institution or as a fellowship grant.

Whether an amount received by an individual is excludable from gross income depends upon the facts and circumstances under which the payment is made.

The regulations provide that any amount or amounts paid or allowed to, or on behalf of, an individual to enable the individual to pursue studies or research shall not be considered to be an amount received as a scholarship or fellowship grant if such amounts represent compensation for past, present, or future services. The Internal Revenue Service has ruled that the Armed Forces health professions scholarship program—AFHPSP—and the National Health Service Corps meet this definition and thus amounts received from the programs should be included as gross income. Recognizing the special nature of these programs, Congress passed legislation that exempted amounts received under the Armed Forces health professions scholarship program or any similar program.

This legislation expired in 1975 but the Tax Reform Act of 1976 contained a limited extension of the tax exclusion for those students who were participating in the program in calendar year 1976. We again extended the exclusion for 2 years.

During discussions on the 1976 Tax Reform Act, it was decided to continue the exclusion of these scholarships from gross income pending a thorough staff review of the appropriate tax treatment of the grants in view of the overall national policy toward the military—and other uniformed services—health professions programs. This study has not yet been done.

Without further action on our part, students entering these programs in 1980 will be taxed on all amounts received from these programs. My proposal would provide for an additional 1-year exemption. In addition, Mr. President, my amendment would also protect those who participate in the National Research Services award.

CONCLUSION

During this time, the Senator from Kansas hopes that the Joint Committee on Taxation will have an opportunity to complete their study of this area, and come forward with a cohesive policy for the future.

Mr. President, I believe it is in the best interests of the public to continue to support these programs by providing for this tax exclusion designed to provide health professionals to the medically underserved and the military.

I urge my colleagues to give this matter their attention.●

By Mr. TSONGAS:

S. 2002. A bill to amend the Consumer Credit Protection Act to prohibit the use of the "Rule of 78's" in the computation of the rebate of unearned interest in precomputed consumer credit transactions with terms greater than 36 months; to the Committee on Banking, Housing and Urban Affairs.

Mr. TSONGAS. Mr. President, I rise today to offer legislation to restrict an archaic lending practice which is costing unsuspecting U.S. borrowers tens of millions of dollars annually.

The practice I refer to is known, within banking circles, as the "rule of 78." It was initially used in this country in the 1930's as a shorthand arithmetic method for computing the unearned interest portion of precomputed consumer loans which had been prepaid or refinanced.

Its early acceptance was based upon the assumption that it represented a close approximation of the interest rebate provided by the universally recognized "actuarial" method in short-term consumer loans. Over the years, however, as consumer lending expanded into longer repayment periods and larger sums for personal loans, the use of the "rule of 78" has also expanded.

Today it is the predominant method used to determine rebates upon prepayment of consumer debts.

Unfortunately for tens of thousands of borrowers, the use of the "rule of 78" becomes grossly distorted when applied to longer term consumer loans. The result is that borrowers who prepay or refinance a longer term consumer loan, such as home improvement, second mortgage or mobile home purchases, may be subject to a substantial undisclosed interest penalty.

Permit me to offer two recent examples of the severe economic injury that can be visited upon an unsuspecting borrower by lenders who employ this practice.

In 1974, a Goshen, Ind. family borrowed $18,000 under a 15 year loan agreement with an interest rate of 18 percent (APR). After 4 years of monthly payments, the family decided to prepay the loan. They were shocked when the finance company informed them that they owed $19,993.

This payout figure represented nearly $2,000 more than they had borrowed 4 years earlier.

The undisclosed interest penalty resulting from the lender's use of the "rule of 78" cost this Indiana family more than $3,000.

Another case, illustrating the extent of economic injury that can and does occur on a frequent basis to consumer borrowers, involved a family from my own State. In 1974, a young couple from East Long Meadows, Mass. borrowed $9,700 from a local saving bank. The loan was for 12 years with an interest rate of 12 percent (APR). After making 4

years of monthly payments of $128 per month, the couple paid off the loan in 1978. They were dismayed to learn that 4 years of payments had reduced the principal by a much smaller amount than they had anticipated. Only later did they discover that the lender's use of the "rule of 78" had resulted in an undisclosed prepayment penalty of $582.

Mr. President, I wish to emphasize that these families received absolutely no forewarning, of the penalty that would be imposed under the "rule of 78." Absurd as it may seem, truth-in-lending has never required lenders to disclose the potential for prepayment penalties under the "rule of 78." Lenders need merely disclose the fact that the "rule of 78" may be employed upon prepayment to calculate the unearned interest.

In recent years, as repayment schedules for home improvement, second mortgage, and mobile home loans have extended up to 10, 15, and even 20 years, the distortions and unconscionable interest penalties which accompany the use of the "rule of 78" have become more evident. Federal and State regulatory agencies are receiving an increasing number of complaints from borrowers who have made a number of monthly payments only to discover, upon prepayment or refinancing of a loan, that their payments had little, if any, appreciable impact upon the principal. Federal and State agencies have also been hard pressed to explain the legality of those cases where the loan principal actually increased after several years of payments.

For every case where the borrower detects the interest penalty imposed by the rule, there are thousands of other borrowers injured by this archaic practice who may be unaware of the excess interest they have been required to pay.

I submit to you that it is time that we eliminate the hidden interest penalties connected with this archaic lending practice. Mr. President, the bill which I submit today will prohibit the use of the "rule of 78" in consumer transactions which extend beyond 36 months. In contracts over 36 months, lenders will be required to provide a rebate based upon the far more equitable actuarial method when computing unearned interest and insurance premiums upon prepayment of a precomputed consumer transaction.

The elimination of the "rule of 78" in contracts over 36 months recognizes the injury caused by the use of this practice in longer term transactions.

Mr. President, this bill will effectively correct a longstanding lending abuse.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 1 of title I of the Consumer Credit Protection Act is amended by adding at the end thereof the following:

"§ 116. Rebate of unearned interest.

"(a) If a consumer prepays in full a consumer credit transaction, the creditor or any assignee shall promptly refund any unearned portion of the finance charge together with any unearned portion of the insurance premium, except that a refund of a finance charge or an insurance premium of less than $1 need not be made.

"(b) For the purpose of calculating the refund of the unearned portion of the finance charge or unearned insurance premiums required by this section for any precomputed consumer credit transaction which is repayable according to its terms over a period of more than 36 months or for any other transaction if the parties so agree, the creditor of any assignee shall compute the refund based on a method which is at least as favorable to the consumer as the actuarial method in accordance with regulations of the Board. The creditor may collect or retain a minimum charge not exceeding $7.50 if provided for by State law and by the contract relating to the transaction.

"(c) Within 5 days of receipt of an oral or written request from a consumer for the disclosure of the amount due on any precomputed consumer credit account, the creditor or assignee shall provide the consumer with a statement of the amount due after deduction of the finance charge and insurance premiums required by this section. If the customer's request is oral, the statement may be oral. If the customer's request is written, the statement shall be written. A consumer is entitled to be provided one statement each year without charge. The creditor may impose a reasonable fee to cover the cost of providing any additional statement requested, and the charge for any additional statement shall be disclosed to the consumer prior to furnishing such statement.

"(d) For the purpose of this section—

"(1) a prepayment includes a voluntary prepayment by the consumer, any refinancing, consolidation, or rewriting of the transaction, or acceleration of the obligation to repay indebtedness; and

"(2) the term 'actuarial method' means the method of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed. The Board may adopt rules further defining the term and prescribing its application.".

(b) The table of sections of title I of the Consumer Credit Protection Act is amended by adding at the end thereof the following new item:

"116. Rebate of unearned interest.".

By Mr. BIDEN:

S. 2003. A bill relating to the White Clay Creek Watershed in the States of Delaware and Pennsylvania; to the Committee on Environment and Public Works:

WHITE CLAY CREEK WATERSHED STUDY ACT

● Mr. BIDEN. Mr. President, today I am introducing the White Clay Creek Watershed Study Act.

For more than a decade, there has been a determined effort by many citizens of Delaware to rescue an area of substantial beauty and ecological value—the White Clay Creek Watershed. The White Clay Creek, through the years, has been threatened by proposals to dam the creek in order to provide a water supply source for New Castle County and by a plan to build a highway beltway to relieve Newark's (Delaware) traffic problem. Determined groups of people fought these various proposals, largely discrediting them. As a result, the watershed has remained a largely undeveloped area, containing natural values that are most certainly worth our preserving, particularly because of the watershed's proximity to a highly urbanized area populated by several hundred thousand people.

This act authorizes the Secretary of the Interior to initiate a study of the White Clay Creek Watershed, assessing its natural attributes, and designing a conservation plan that would preserve those natural attributes. I feel quite strongly that such natural areas ought to be protected, especially those natural areas in the midst of highly urbanized areas, like the White Clay Creek. That is why I take this first step toward protection today.

I make this request for two reasons:

First. The White Clay Creek Watershed possesses scenic, wildlife, and recreational values worthy of assessment, and eventually, of preservation and protection; and second, the watershed is located in two States—Delaware and Pennsylvania. Delaware is located in the industrial northeast. It possesses precious few natural areas like the White Clay Creek Watershed. It seems good policy, to me, to retain just a small portion of that land and maintain those natural attributes. We ought to set aside portions of these natural lands where children can come to learn to swim, where fishermen can fish for trout, and where just plain folk can come and see a white-tailed deer.

In addition, because the States of Delaware and Pennsylvania share the White Clay Creek Watershed, the Federal Government should become involved. That watershed should be considered as one entity, but there is no appropriate regional governmental structure capable of looking at the entire picture. In addition, the Department of the Interior has professional resources for such a study not available to my State of Delaware.

In my efforts to assure conservation of this area, I first approached the Department of the Interior. I asked the Secretary to help me explore the possibilities of including the White Clay Creek—including Middle Run Valley—and its tributaries in the National Wild and Scenic Rivers System. The northeastern region of the Heritage Conservation and Recreation Service did include the White Clay system in its rivers inventory process. Although this preliminary study did not recommend inclusion in the Wild and Scenic Rivers System, the response I received from the Heritage Conservation and Recreation Service did contain the following paragraph which forms the basis of this legislation:

Although it doesn't appear to be a candidate for the National Wild and Scenic Rivers System, we feel that there is still a great potential to develop a worthwhile conservation strategy for the White Clay Creek. The dedication of the people concerned with its future is remarkable and provides a solid foundation for stream protection. We do not wish to place a damper on their activities and we would like to help these individuals and organizations in any way we can. We do feel responsible, however, to provide you with our honest appraisal of what is the most feasible option available in the long term.

Assistant Secretary (for Fish and Wildlife) of the Interior Robert Herbst said it best, and said it briefly, in remarks before the Alabama Conservancy on February 24, 1978:

There also emerged a need/discovered during the investigation of the River Protection Task Force, which drew members from the American Rivers Council, the Natural Resources Defense Council, an outside consultant, and Bureau of Outdoor Recreation staff (now the Heritage Conservation and Recreation Service of the Department of the Interior) to provide recreational rivers near urban centers wherever those possibilities exist.

Those possibilities exist in the White Clay Creek Watershed.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "White Clay Creek Watershed Study Act".

SEC. 2. As used in this Act, the term "White Clay Creek Watershed" means the area within the States of Delaware and Pennsylvania comprising approximately forty miles of the White Clay Creek and its tributaries as well as the Middle Run Valley and including the following:

(1) MAIN STEM.—Approximately five and one-half miles from Pennsylvania border to Kirkwood Highway, plus eight unnamed tributaries varying from one half to one and one-half miles each, totaling approximately seven and one-half miles, all in the State of Delaware;

(2) MIDDLE RUN.—Approximately four and one-half miles north of confluence with Main Stem at Kirkwood Highway, in the State of Delaware;

(3) MAIN STEM.—One mile from the Delaware border within the State of Pennsylvania;

(4) WEST BRANCH.—Approximately six miles to New London Township in the vicinity of New London, in the State of Pennsylvania;

(5) MIDDLE BRANCH.—Approximately six miles to southern border of West Grove, plus the Indian Run tributary for one mile and an unnamed tributary flowing from near Jennersville for one and one-half mile, all in the State of Pennsylvania;

(6) EAST BRANCH.—Approximately five miles to southern boundary of Avondale, plus the Egypt Run tributary for one and one-half miles, and an unnamed tributary joining from the west for one half mile, all in the State of Pennsylvania; and

(7) BROAD RUN.—Approximately three and one-half miles to Kaolin, plus the Walnut Run tributary for one mile and an unnamed tributary joining from the southeast for one mile, all in the State of Pennsylvania.

SEC. 3. (a) The Secretary of the Interior shall prepare and, after appropirate public hearings (one of which shall be held within the area comprising the White Clay Creek Watershed), submit to the Congress, within the twelve-month period following the date of enactment of this Act, a plan to conserve the natural resource values of the White Clay Creek Watershed. If the Governor of the State of Delaware or the State of Pennsylvania wishes to participate in the preparation of such plan, the Secretary of the Interior, and the officers and citizens of any such State designated by the Governor thereof, shall jointly prepare such plan. If either such Governor elects not to participate, the Secretary shall consult with such Governor during the preparation of such plan.

(b) The plan submitted to the Congress pursuant to this Act shall—

(1) provide for a resource assessment of the White Clay Creek Watershed. Such resource assessment shall include, but not be limited to—

(A) water supply and water quality;

(B) natural hazards, including fire;

(C) endangered, unique, and unusual animals, fish, and biotic communities;

(D) air quality;

(E) scenic, aesthetic, and open space resources of the White Clay Creek Watershed, together with a determination of the overall policies required to maintain and enhance these resources;

(F) the outdoor recreation resources and potentials, together with a determination of policies required to utilize, protect, and enhance these resources and potential; and

(G) existing land use patterns throughout the White Clay Creek Watershed, as well as alternative beneficial uses thereof.

(2) propose boundaries (which shall be based upon the assessments referred to in paragraph (1) of this subsection of—

(A) the overall area of the White Clay Creek Watershed which should be comprehensively managed so as to conserve, protect, or enhance the ecological, wildlife, historical, agricultural, and educational resources of the White Clay Creek Watershed, and

(B) those subareas within such Watershed which are of critical ecological importance and with respect to which immediate actions should be taken by the State or Federal Government, or both, in order to protect such subareas from uses which are incompatible with the conservation, protection, and enhancement of the nautral resource values of the White Clay Creek Watershed.

(3) recommend State and Federal actions which should be implemented to conserve, protect, and enhance the natural resource value of the White Clay Creek Watershed.

(C) The plan submitted to the Congress pursuant to this Act shall not taxe effect until after the expiration of the one-hunderd-and-eighty-day period following the date of such submission.

SEC. 4. There is authorized to be appropriated to the Secretary of the Interior such sum, not to exceed $500,000, as may be necessary to carry out the planning activities required under section 3(b), and eo enable the Secretary to reimburse the States of Delaware and Pennsylvania for reasonable costs incurred by such States in participating in the joint preparation of the plan estabilshed pursuant to this Act.●

By Mr. WILLIAMS:

S. 2004. A bill entitled the "Public Transportation Energy Conservation Act of 1979"; to the Committee on Banking, Housing, and Urban Affairs.

EMERGENCY PUBLIC TRANSPORTATION ENERGY CONSERVATION ACT OF 1979

● Mr. WILLIAMS. Mr. President, the purpose of this bill can be easily stated. It would amend the Urban Mass Transportation Act of 1964 to authorize appropriations from the revenues of the windfall profits tax to be used to fund transportation projects which increase energy efficiency or decrease our dependence on foreign oil. This amendment would authorize an additional $1,150,000,000 in fiscal year 1980. This increase will permit supplemental appropriations to be made this year for energy efficient public transportation once a transportation trust fund is created later this year. The money would be used to make grants and loans to local public bodies to purchase transit equipment such as buses and railcars and construct new facilities. The program requirements of the existing UMTA discretionary grant program (section 3) would be used to govern the program.

Mr. President, the Surface Transportation Assistance Act of 1978 (Public Law 95–599) extended the basic features of the Urban Mass Transportation Act of 1964 and provided authorizations for public transportation through fiscal year 1983. The discretionary capital grant program contained in section 3 of the basic act, which is the subject of this emergency legislation, funds the construction of new fixed guideways and extensions of existing systems and the modernization of existing mass transit facilities and equipment. But any bus-related purchases are eligible under the capital grant program.

Mr. President, it appears that the President and the Congress recognize like never before the need for improvements in the Nation's mass transportation systems as a centerpiece in our battle to conserve scarce energy. Transportation in all its forms uses 52 percent of the total petroleum used in the United States each day, with the largest share—80 percent—being consumed by highway vehicles. The private automobiles alone account for more than one-third of our total consumption. Too often Americans resort to the convenience of the private automobiles for the most routine purposes and too frequently they are traveling alone.

Mr. President, the only way we can make a significant dent in unnecessary private automobile use is by encouraging increased use of energy-efficient public transportation. The New York Times reported recently that public transportation ridership has increased steadily over the past 25 months. More importantly, it was reported that this increase is permanent.

Mr. President, to continue this trend, our antiquated systems must be rehabilitated and new equipment must be put in service to accommodate the additional demand which we can expect as a result of future energy shortfalls. With the prospect of continuing tight energy supplies, and with the emphasis on energy conservation, it is fundamental that we improve the capacity of our public transportation systems to carry the increasing number of Americans who are expected riders.

Mr. President, the focus of the program over the years was to prevent the failure of privately-owned and operated transit companies. But last year we began to shift the emphasis in the program to provide financial assistance to allow existing transportation systems to be modernized, new systems to be constructed, and for communities who had not previously considered public transportation programs to be eligible to participate. The current level of Federal funding is inadequate to permit the large-scale improvements necessary to create a public transportation capacity in the United States that is extensive, modern, and reliable.

President Carter's transportation energy initiative recognizes the inadequacy

of our current support for an effective public transportation program. Thus, the administration has proposed to increase funding for public transportation capital projects from the proposed windfalls profits tax. However, the President's specific recommendation did not arrive in time to permit its consideration in the context of S. 932.

Mr. President, I support the President's long overdue realization that public transportation in the United States can contribute to the national goal of energy conservation. I applaud his recognition that we as a nation will have to rely even more in the future on public transportation to gain ground in the struggle against energy independence. And the Subcommittee on Housing and Urban Affairs will begin work early next year on a top-to-bottom review of the existing program at which time the President's detailed legislative recommendations can be given full consideration by the Congress.

In the meantime, until major changes in the programs can be undertaken, I believe it is necessary to inject additional funds into the program immediately to finance ongoing capital improvements in our bus and rail systems. For too long, necessary projects have been proceeding slowly or not at all because of a lack of assured and adequate funding as a result of restrained budget requests from the administration.

The purpose of this bill is to raise the authorization for the section 3 program for the current fiscal year. Once this is accomplished, it will be possible to consider supplemental appropriations later in the year that will allow governments at all levels to begin implementing comprehensive energy conservation strategies.

Mr. President, if Congress is to attack our energy problems, we should attack it on every front. This bill will facilitate our efforts later this year to immediately deploy more public transportation equipment and provide better service, thus reducing our dependence on foreign produced petroleum.

This amendment is an emergency measure for this fiscal year to insure that the portion of the windfall profits tax which the Finance Committee reserved for transit purposes can be used to make transit grants quickly. Enactment of this 1-year measure will allow the expanded transit program to be undertaken immediately, while still giving the Congress the time that we need to make a comprehensive assessment of the kind of UMTA program that will be required in future years. I want to emphasize to my colleagues that this authorization contemplates and requires the enactment of a windfall profits tax. If the tax is not passed, this amendment will not become effective.

I ask unanimous consent that the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Emergency Public Transportation Energy Conservation Act of 1979."

Section 101(a). Section 4(c) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new paragraph:

"4(c)(4) To finance grants and loans under section 3 of this Act, there are authorized to be appropriated from tax receipts earmarked for energy efficient transportation which have been placed in a trust fund additional sums not to exceed $1,150,000,000 for the fiscal year ending September 30, 1980. Appropriations pursuant to the authority of this paragraph shall remain available for three years following the close of the fiscal year for which such appropriation is made. Grants and loans financed under this paragraph shall be subject to the aggregate restriction of section 4(c)(3)(B).●

By Mr. EAGLETON:

S. 2005. A bill to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately; to the Committee on Governmental Affairs.

● Mr. EAGLETON. Mr. President, on November 9 I introduced legislation, S. 1999, dealing with the serious situation in the District of Columbia precipitated by the decision of the Federal National Mortgage Association (Fannie Mae) to cut off mortgage money in the District.

S. 1999 remedies the current situation by waiving the usual period provided for congressional review of District legislation to enable legislation passed by the District raising the maximum interest rate from 11 percent to 15 percent to take immediate effect. S. 1999 also amends the Home Rule Act to dispel uncertainty and confusion surrounding the District government's use of emergency legislation—the indirect cause of the current crisis. A detailed discussion of the legislation and the factual situation can be found in the RECORD for November 9, beginning at page S14657.

Because of the urgency of this matter, the Subcommittee on Governmental Efficiency and the District of Columbia will hold a hearing on my legislation and S. 1992, a bill introduced by Senator MATHIAS, on Wednesday, November 14, at 2 p.m., in room 3302, Dirksen Senate Office Building. I hope my colleagues will lend their support for rapid legislative action to deal with this problem.

Since the introduction of S. 1999, I have become aware of the need for several technical amendments to the bill, owing in part to a drafting error. For the sake of clarity, I am introducing today a clean bill making the necessary corrections, and I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act shall not apply to the Interest Rate Modification Act of 1979 (District of Columbia Act 3–119) passed by the Council of the District of Columbia on November 6, 1979, and signed by the Mayor of the District of Columbia on November 6, 1979, and such District of Columbia act shall become law on the date of the enactment of this Act, notwithstanding section 404(e) of the District of Columbia Self-Government and Governmental Reorganization Act and any provision to the contrary in such District of Columbia act.

SEC. 2. (a) Section 412(a) of the District of Columbia Self-Government and Governmental Reorganization Act is amended (1) by designating the existing text as paragraph (1); (2) by deleting "ninety days" and inserting in lieu thereof "one hundred and eighty days"; and (3) by adding at the end thereof the following new paragraph:

"(2) In no case shall any emergency act be passed by the Council arising out of or in connection with any emergency situation if such act is for the same purpose and covers, in whole or in part, the same subject matter as any prior emergency act and is based on the same emergency as that on which such prior act was based.".

(b) Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end thereof the following new subsection:

"(d) Except as provided in this subsection, in any case in which an act is passed pursuant to subsection (a)(1) of this section on the basis of an emergency, such emergency act, including all amendments thereto, shall terminate on the date of termination provided in such act, or upon the expiration of the one hundred and eighty day period following the date of passage of such emergency act, whichever first occurs. In any case in which the Council, during such one hundred and eighty day period, passes and transmits to the Speaker of the House of Representatives and the President of the Senate an act under the regular order for the same purpose, and covering and limited to the same subject matter, as that contained in such emergency act, and the Congress adjourns sine die prior to the termination of the thirty day period provided in section 602(c)(1) of this Act for the consideration by Congress of such act of Council, the emergency act of Council shall remain effective until after the expiration of such thirty day period, unless the Congress, during such thirty day period, adopts a concurrent resolution disapproving such act.".●

By Mr. DOMENICI:

S.J. Res. 120. Joint resolution to designate the week of December 2, 1979, as "Respiratory Therapy Week"; to the Committee on the Judiciary.

RESPIRATORY THERAPY WEEK

● Mr. DOMENICI. Mr. President, I am sending to the desk a resolution which would, if enacted, proclaim the week of December 2, 1979, as Respiratory Therapy Week.

By designating the first week in December as Respiratory Therapy Week, we call attention to one of the major health problems facing Americans. This is an appropriate time for such a designation in light of the fact that it will coincide with the 25th Annual Convention of the American Association for Respiratory Therapy which will convene here in Washington during that week.

I believe, Mr. President, that we have been slow in this country to recognize the full significance of occupational hazards which affect a persons ability to breathe. A few years ago, Congress wrestled with the issue of black lung and enacted a major program to meet the needs of its victims. We are now hearing increasing talk about other industrial problems such as brown lung. I recently held a hearing in Grants, N. Mex., where we focused on the respiratory diseases

which frequently afflict uranium miners. In addition, there are many congenital respiratory diseases which afflict children and seem unrelated to environmental factors.

I believe that this particular health problem has reached the proportions in this country that warrant focusing more attention on it at the national level. I believe that designating the week of December 2 as Respiratory Therapy Week will help to publicize this problem and, in doing so, contribute to the ongoing effort to combat these various disorders.

Mr. President, I would urge our distinguished colleagues on the Senate Judiciary Committee to give prompt and favorable consideration to this resolution.●

ADDITIONAL COSPONSORS

S. 1724

At the request of Mr. WILLIAMS, the Senator from Delaware (Mr. BIDEN), the Senator from Michigan (Mr. RIEGLE), and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 1724, the Home Energy Assistance Act.

S. 1953

At the request of Mr. YOUNG, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 1953, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour.

S. 1965

At the request of Mr. RIEGLE, the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 1965, the Chrysler Corporation Loan Guarantee Act of 1979.

S. 1977

At the request of Mr. PACKWOOD, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 1977, a bill to amend the Social Security Act regarding title XVIII, medicare home health programs.

SENATE CONCURRENT RESOLUTION 49—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE IRANIAN CRISIS AND THE WORLD RESPONSE

Mr. DOLE submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 49

Whereas the Executive Branch is undertaking efforts to communicate with such authority as exists in Iran to ease the current actions taken by the Revolutionary government of the Islamic Republic of Iran;

Whereas these actions by the Revolutionary government of Iran are in direct violation of established international norms of conduct and are a serious threat to the safety and well-being of Americans in Iran;

Whereas this is a matter which affects the interest of the entire world not only the interests of the United States; and

Whereas the United Nations Security Council has condemned these actions of the Revolutionary Government of the Islamic Republic of Iran: Now, therefore be it resolved by the Senate (the House of Representatives concurring) that—

SEC. 1. (1) The Congress hereby supports the actions of the President in attempting to secure the release of all American citizens and hereby condemns the actions taken by the Revolutionary Government of Iran with respect to American citizens in Iran;

(2) It is the Sense of the Congress that—

(a) the President should take whatever appropriate action deemed necessary to enlist the support of the international community in securing the release of all Americans held hostage in Iran and exhibit world solidarity on this issue by:

(1) closing their embassies and withdrawing their diplomatic personnel from Iran, suspending diplomatic relations until the hostages are released; and by

(2) imposing a unified, voluntary world embargo on the purchase of Iranian crude oil; until the government of Iran guarantees that all diplomats will be given immunity in accordance with the Vienna Convention on Diplomatic Relations of 1961.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this concurrent resolution to the President.

THE IRANIAN CRISIS AND THE WORLD RESPONSE

● Mr. DOLE. Mr. President, since the Iranian crisis began over a week ago, I have followed very closely this tense and critical situation. It has seemed to me that once again the United States finds itself and the lives of some of its citizens held hostage to the fanatical and unreasonable demands made by political extremists of the Third World. I have purposely limited the scope of my remarks, not wishing to exacerbate the delicate balance between life and death faced by our diplomatic personnel in Tehran. When dealing with unstable elements, we must tread warily, or risk everything.

This is not a time for partisan politics or for taking political potshots at the administration. Today, I sent a telegram to all Presidential candidates urging them to join me in supporting the President during this time of crisis and to stand behind him in any firm action he may deem necessary. We must present a firm, united, and bipartisan front in this dangerous situation. I ask unanimous consent that the text of this telegram be printed at this point in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

TELEGRAM TO ALL PRESIDENTIAL CANDIDATES

I believe it would be helpful if the major Presidential candidates indicated their support for President Carter during this difficult period. This would demonstrate to the world that America is united behind the President and would strengthen his hand in dealing with the Iranian situation. It is time to indicate that we would support the President in taking whatever firm action he deems appropriate. Let's join together in supporting the President during this critical period. Thank you.

Mr. DOLE. The President has taken an important step in resolving this crisis by halting the purchase of Iranian oil. There comes a time in a crisis when doing nothing that might be abrasive becomes not doing anything at all and results in accomplishing nothing. A crisis does not just call for calm, but for cool-headed and decisive action. Delay could lead to failure and the death of our people in Iran. With what does the United States have to bargin with these mob-led students? What pressure can we bring to bear to alter the balance in our favor? With whom do we deal in Iran that words of reason and logic can reach?

The United States and its Senate can deliver a message to those attempting to control events in that country. If the Ayatollah Khomeini is able to direct the actions of his followers, then we can send him a message that will make clear, for the first time, what this Senator believes the United States can do, and ought to do, in response to this flagrant and inhumane breach of international law and custom.

Mr. President, today I offer a resolution, a resolution that it is the hope and belief of the Senator from Kansas will add to the message we sent with the cutoff of oil purchases, and send that message with real force and impact.

We do not need to stand idly by, letting Khomeini hold all the trump cards. There are some avenues of pressure still open to us.

Mr. President, the Senator from Kansas commends and supports President Carter's embargo, but it is true that Iran can always sell its oil to someone else. The seizure of American diplomatic personnel on U.S. sovereign soil is a danger to all nations in the world community, however. If such actions are allowed to go unchallenged, the entire network of international procedure and ability to communicate among countries will break down. International standards of conduct have been universally agreed to in the Vienna Convention on Diplomatic Relations and all nations have a stake in enforcing them.

The resolution the Senator from Kansas proposes today would do several things. First, it supports the President's actions in attempting to secure the release of the American hostages. Second, it urges the President to enlist the support of all other nations to end this crisis and uphold international law by closing their embassies and suspending diplomatic relations with Iran until the hostages are freed. It further urges a voluntary halt to oil purchases by all nations until the world community receives a guarantee that diplomats in Iran will be given immunity in accordance with the Vienna convention and that all embassies will be allowed to operate freely.

PRESSURE THEY CAN FEEL

It is my belief that the Ayatollah Khomeini and his revolutionary council will begin to realize their villainous error only when the pressure from the international community threatens to isolate them and begins to have an effect that can be readily felt on their economy. This action involves only a small percentage of world oil supplies and within the capability of all nations to conserve and sacrifice to the extent necessary.

The United States will be ready to stand firm in opposing these terrorists' acts and will certainly do all within its power to insure that those nations, who join in this effort aimed at the release of our citizens now held captive, are not

adversely impacted by a unified Iranian oil embargo.

Hopefully, with the encouragement of our Government, other producing and oil exporting countries can join to provide measures to redirect exports and increase production to make up for any specific instances of heavy dependence on Iranian oil. This crisis affects all nations, but it can be licked if we share the burden equally and stand united to confront the challenge to international law.

The world community cannot permit terrorist activities to dictate events. We all have a great deal at stake and therefore, we all must act together. If we do not work together to stop these actions there will be no end to terrorists demands.

If all nations invest in this united action, realizing it is in their own long-term interests to do so, it is my belief this crisis can be resolved and the safe release of the hostages accomplished. Nevertheless, there are further unilateral actions the United States can take. The President should consider, in addition to the oil embargo, a complete suspension of all trade with Iran, including military, industrial, and agricultural goods. The products of this country, in the long run, do more to support the lives and economy of the Iranians than their exports of oil do for Americans. Because of the disruption in the balance of payments between the two nations this embargo will cause, perhaps all Iranian assets in this country should be frozen at this time until the situation is resolved.

Again, I would like to emphasize the bipartisan nature of this resolution. The United States sells some half billion dollars of wheat to Iran each year, but as a Senator from a farming region, I believe I can say without hesitation that all the American people are willing to stand behind the President on any actions he thinks it necessary to take, whether it is an oil embargo, a complete trade embargo, or any other firm action. I hope my colleagues will join with me on this resolution now. The American people are calmly awaiting decisive action. How much can we expect them to tolerate? ●

SENATE CONCURRENT RESOLUTION 50—SUBMISSION OF A CONCURRENT RESOLUTION URGING THE SOVIET UNION TO ALLOW THE EMIGRATION OF IDA NUDEL TO ISRAEL

Mr. WILLIAMS (for himself, Mr. PERCY, Mr. BAYH, Mr. BENTSEN, Mr. BOREN, Mr. BRADLEY, Mr. CHILES, Mr. CHURCH, Mr. COCHRAN, Mr. COHEN, Mr. DECONCINI, Mr. DOLE, Mr. FORD, Mr. HAYAKAWA, Mr. JACKSON, Mr. JAVITS, Mr. JEPSEN, Mr. LUGAR, Mr. MCCLURE, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. PELL, Mr. RIBICOFF, Mr. SARBANES, Mr. STONE, Mr. TOWER, Mr. TSONGAS, Mrs. KASSEBAUM, and Mr. ZORINSKI), submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 50

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee to all people the right to emigrate; and

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits signatory countries to "deal in a positive and humanitarian spirit" with the applications of persons wishing to emigrate to rejoin relatives; and

Whereas the Soviet Union signed the Final Act of the Conference on Security and Cooperation in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights; and

Whereas Ida Nudel first applied to emigrate from the Soviet Union to Israel in 1971 to rejoin her only living relatives; and

Whereas Ida Nudel has devoted her life to the plight of Jewish political prisoners throughout the Soviet Union; and

Whereas Ida Nudel has been convicted by the Soviet Government of "malicious hooliganism" for hanging a banner on her balcony which said, "KGB, give me my visa"; and

Whereas Ida Nudel was sentenced to four years of exile in Siberia after a trial in which no witnesses were allowed to testify in her defense; and

Whereas Ida Nudel's health has deteriorated to the point where it is unlikely that she can withstand another Siberian winter; and

Whereas the continuing harassment of political and religious activities and intellectuals in the Soviet Union and in some other countries in Eastern Europe is a source of great concern to the American people and the United States Congress: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that, in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, the Union of Soviet Socialist Republics should release Ida Nudel from exile and allow her to emigrate to Israel so that she can be reunited with her sister and husband.

SEC. 2. The Congress urges the President, acting directly or through the Secretary of State or other appropriate executive branch officials—

(1) to continue to express at every suitable opportunity and in the strongest terms the opposition of the United States to the exile of Ida Nudel to Siberia; and

(2) to inform the Soviet Union that the United States, in evaluating its relations with other countries, will take into account the extent to which those countries honor their commitments under international law, particularly with respect to the protection of human rights.

SEC. 3. The Secretary of the Senate shall transmit copies of this resolution to the Soviet Ambassador to the United States and to the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics.

Mr. WILLIAMS. Mr. President, today, along with Senator PERCY and 27 other cosponsors, I am submitting a concurrent resolution urging the Soviet Union to allow Ms. Ida Nudel to emigrate to Israel.

Ida Nudel, a 48-year-old Moscow economist, is known throughout the dissident movement as the "guardian angel" of Jewish political prisoners in Russia. For years Ms. Nudel, working out of her Moscow apartment, collected information about other dissidents sentenced to years in internal exile, sending them letters of encouragement, information about their families, food parcels, and other expressions of shared concern. She even knew the birthday of every Zionist prisoner in the various camps, and would send birthday greetings, realizing the value such a warm message might have.

Since 1971 Ida Nudel has been applying for permission to emigrate to Israel. On each occasion that permission has been denied. These refusals only served to increase her determination and commitment to the cause of free emigration. In June of 1978, Ms. Nudel was arrested and charged with "malicious hooliganism" because of her efforts on behalf of herself and hundreds of other dissidents. She was tried in a closed trial and sentenced to 4 years of internal exile in Siberia. Her health is failing, and her friends are now fearful for her life, as she is the only woman in a barracks full of hardened criminals—all of them men.

There is widespread support in both Houses of Congress and among the American public for this brave woman. A similar resolution in the House of Representatives, introduced by Congressman STACK, has 125 cosponsors with action expected shortly.

I am particularly pleased that the Congressional Wives for Soviet Jewry, cochaired by Mrs. Helen Jackson and my wife Jeanette, has been especially active on her behalf. This group of 100 congressional spouses has been collecting petitions, writing letters, and bringing Ms. Nudel's case to the attention of a number of authorities, including Rosalynn Carter.

During a recent White House meeting, the group presented Mrs. Carter with a small statue of a fisherman, symbolizing freedom. The statue was from Ms. Nudel, given just before she was sent into exile.

Mr. President, Ida Nudel is being denied a basic human right—the right to emigrate. We in the Senate should now voice our firm commitment to this basic dignity. I therefore urge my colleagues to join with me in supporting this resolution.

Mr. PERCY. Mr. President, Ida Nudel distinguished herself for 7 years as the "guardian angel" of Soviet prisoners of conscience. For 7 years she supplied food and medicine to prisoners of conscience, kept in touch with their families, gave them hope and comfort, and did everything humanly possible to relieve their suffering. Now, Ida Nudel is the only woman dissident in exile in the Soviet Union. She has been sentenced to 4 years in a Siberian labor camp where she is the sole woman prisoner in a barracks of hardened criminals. She has a weak heart and her health is deteriorating.

Ida Nudel is a selfless person. She brought harm to no one; she brought help to many. One day she hung a banner outside her flat which said "KGB Give Me My Visa." She wanted to emigrate to Israel, her spiritual homeland and the home of her husband and sister. The Soviets are punishing her for this.

Mr. President, I am proud to join Senator WILLIAMS in sponsoring this resolution for Ida Nudel, and I am gratified that already 27 of our colleagues have added their names as cosponsors.

From exile, Ida wrote "If our suffering will not force every one of you to rush to help us, then it is in vain." We must do everything we can to help. This resolution can be one expression of our determination to work for prisoners of conscience and other Soviet citizens being denied the right to emigrate.

Ida Nudel would not let the plight of the dissidents be forgotten by the outside world. Now we must not forget Ida Nudel in her time of need.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will continue oversight hearings on the Department of Energy on November 14, 1979, at 10 a.m. in room 3302 of the Dirksen Senate Office Building.

The subject of the November 14 hearing will be conservation. Witnesses will include David Freeman, chairman, Tennessee Valley Authority, and Daniel Yergin, Harvard Business School.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I would like to announce that the Senate Small Business Committee will resume its hearings on capital formation problems of small business on November 20, November 27 and November 28. The sessions will take place in 424 Russell Senate Office Building from 9 to 11 a.m. on November 20, and the remaining information on timing and witness lists will be released shortly by the committee.

Further information about the hearings may be obtained at the committee office at the above address or by telephone at 202–224–5175.●

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

● Mr. HUDDLESTON. Mr. President, I wish to announce that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices has scheduled an oversight hearing on the effect of casein imports on the U.S. dairy industry. The hearing will be held Tuesday, November 20, beginning at 9:30 a.m., in room 324 Russell.

Anyone wishing to testify should contact Denise Alexander of the Agriculture Committee staff at 224–2035.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, November 15, to hold hearings on judicial and Executive nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Agricultural Research and General Legislation Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, November 15, 1979, to hold a hearing on S. 770, legislation prohibiting future trading in potatoes on commodity exchanges.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the East Asian and Pacific Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 15, 1979, beginning at 2 p.m. to consider United States-Taiwan treaties and agreements.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBMITTED ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Governmental Efficiency and the District of Columbia of the Committee on Governmental Affairs be authorized to meet during the session of the Senate tomorrow (November 14) beginning at 2 p.m. to hold a hearing concerning the mortgage crisis and the use of emergency legislation in the district.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE COURAGE OF THE DISSIDENTS IN THE SOVIET UNION

● Mr. JACKSON. Mr. President, I wish to bring to the attention of my colleagues an article by Jeanette Williams on the plight and courage of the Soviet dissidents of various political and religious backgrounds. In her article in the Washington Star of October 27, 1979, she writes:

> The dissidents' brave assertion of their rights as human beings has kindled a flame of admiration all over this earth . . . Let us stand with them, and put the Soviet authorities on notice that we are there, watching and waiting.

We know Jeanette as the wife of the distinguished Senator from New Jersey. We know her also as the dedicated and energetic cochairman of the Congressional Wives for Soviet Jewry.

I ask that her article be printed in the RECORD.

The article follows:

THE COURAGE OF THE DISSIDENTS

(By Jeanette Williams)

Andrei Sakharov said, "Today, during the day of the Belgrade Conference, political prisoners in the USSR are carrying out a hunger strike, fighting not for themselves but for the principles which should be dear to all freedom loving peoples. Let us be worthy of them."

The raw courage of Soviet dissidents to join together and protest their oppression has startled the world into a renewed awareness of how barbaric Soviet society can be. Although Americans have become more aware of the dissidents' plight through press reports, increased contact with these stoic individuals would add a new dimension to their struggle.

Only by communicating directly with the dissidents can we learn how political opponents of the Kremlin are systematically stripped of the benefits of citizenship. Of course, we in the West owe a great deal to our newspapers for exposing the plight of Soviet Jews and other minorities. But monitoring the Helsinki Accords on Human Rights should not be left just to the press with its uncertain priorities, nor our government with its cautious policies.

Independent citizens, mindful of human rights but obligated neither to prevailing government dictator, the whims of space-conscious newspaper editors, can provide a valuable link to these people. By identifying ourselves with their struggle, we guarantee that their cries for freedom will be heard. The dissidents' brave assertation of their rights as human beings has kindled a flame of admiration all over this earth.

When he accepted the Nobel Prize for Literature, William Faulkner said, "I decline to accept the end of man . . . I believe that man will not merely endure: he will prevail. He is immortal not because he alone among creatures has an unexhaustible voice, but because he has a soul, a spirit capable of compassion and sacrifice and endurance." Faulkner's statement could have no better example than that of the Soviet dissidents.

One direct result of their inspiration was the founding of the Congressional Wives for Soviet Jewry, which Helen Jackson and I co-chair.

Founded two years ago, the Congressional Wives provide moral support for the targets of Soviet reprisals. Among our first experiences was meeting with Mrs. Natalia Scharansky. I saw her as a heroic figure. More than that, I sensed the combination of frustration, despair, and hope which she conveyed to all about her.

I have often thought that there must be a certain identity of experience among women in this situation which permits them to feel emotional stress so keenly. In fact, I wonder whether the presence of the wives of Soviet leaders at this meeting might have helped bring about a more humane policy in the Soviet Union.

There have been many other lessons for us from our experiences. The bond of humanity that joins the religious and political dissidents dramatically demonstrates the desire for freedom as an endowment of every human soul. Soviet Jewish dissidents have been joined by political and religious dissidents of every conceivable description.

We would be destitute of feeling if we were not deeply affected by the mental and physical cruelty inflicted on these people. Let each of us resolve to identify these individuals, establish friendships with them, and fight as they fight. Let us stand with them, and put the Soviet authorities on notice that we are there, watching and waiting.●

RURAL AMERICA

● Mr. COHEN. Mr. President, rural America begins, not where the suburbs end amidst open fields fated for development, but far away along the road where the land has eroded the macadam's width. America's roads have become the shortest distance between two points on the map, but between, and often forgotten, lies rural America. There, people lead lives of both nobility and desperation, industry and imposed inactivity.

Today, rural America is undergoing far-reaching change. Newcomers are following the migration of major businesses which have left the city in search of a better environment for their employees. Development is welcome, but with it come unexpected and undesirable effects.

New studies have revealed that infla-

tion in the remoter parts of the country is rising faster than in our cities. The romantic myth of self-sufficiency, seemingly founded on misconceptions as outdated as Currier and Ives prints, no longer exists in America's country communities.

Until recently, examinations of inflation have been based almost entirely on the buying habits of urban residents, who form the basis of the Consumer Price Index. With the likelihood of chronic inflation over the next few years, economists have begun to look at its effects on life in the countryside, where they previously believed people enjoyed low, stable prices.

The fact is, and now economists are saying so plainly, that prices are rising faster in rural areas than anywhere else in the Nation. Housing and services do cost less in the country, but all categories of merchandise have soared well beyond the buying power of many rural residents.

Some of the reasons for this include high transportation costs from major distribution centers, fewer chances for competition and price reductions because of the limited number of stores, and ultimately, a higher growth rate.

The newcomers to the countryside are creating the very problem they wished to avoid. The law of supply and demand has placed a great deal of pressure on rural consumers and employers. As new businesses arrive with generally higher wage scales, longtime employers must raise their own wages to compete for labor. This alone fuels a higher demand for goods and services, but it also forces local sellers to raise the price of goods to offset increasing labor costs.

After hardly changing at all for years, prices in rural America for everything from haircuts to home appliances have risen dramatically. This is the experience in one small town in Vermont: Haircuts, up 16.7 percent; a quart of milk from the local dairy, up 15.9 percent; a refrigerator, up 15 percent. In each case, the price rose anywhere from 3 to 10 percent in excess of the Consumer Price Index rate.

The root cause for most inflation in rural America is the nearly unbelievable increase in energy costs—both gasoline and home heating fuel have gone up at a rate anywhere from 50 to 100 percent.

It is appropriate that rural America is now receiving attention from private institutions around the country, and I would suggest that Congress begin to take a hard look at the pressures building up in the countryside.

I ask that the following article from the Wall Street Journal, dealing with the problem I have described, be printed in the RECORD.

MOVING TO THE COUNTRY TO ESCAPE INFLATION? YOU'RE IN FOR A SURPRISE

(By Liz Roman Gallese)

NEWPORT, VT.—When newlyweds Philip and Kathleen Becker recently moved from suburban Long Island to this rural community, they were surprised to find themselves paying such high prices.

Food costs are higher than on Long Island and are rising steadily, "although we expected them to be lower because of the number of farmers here," says Mrs. Becker, who works as a bank teller.

Fuel is so high that Mr. Becker, who is a grade-school teacher, plans to sell his pickup truck and make do with the couple's more gasoline-efficient Toyota automobile. And he has agreed to do chores for his landlord in exchange for a break on the rent, which rose sharply in September because of the high cost of fuel.

Prices in rural America are surprising many people besides the Beckers these days. Until recently, students of inflation focused almost exclusively on urban consumers, whose buying habits form the basis of the widely used consumer price index. But as inflation becomes more chronic, economists are beginning to study its rural aspects, too. Like the Beckers, they are discovering that life in the countryside isn't one of low, stable prices, as has usually been supposed.

HOUSING IS CHEAPER

True, most things—housing and most services, for example—cost less in rural areas than in cities. But many, particularly store merchandise, cost more, and the rate of inflation may be worse outside the cities than in them. Juan de Torres, an economist at the Conference Board, the New York business-research group, says flatly:

"Prices are rising faster in rural areas than in urban areas."

Just how and where money is spent by rural consumers who aren't farmers—which means the bulk of them—is under study, for perhaps the first time, by the Urban Institute, a research group in Washington.

Probably the most important early finding, says Laurie Tobias, a research associate at the institute, is that rural consumers don't spend their money much differently from urban ones. That dispels romantic notions that they save by growing most of their own food and by chopping wood for fuel. At the same time, Mrs. Tobias says, rural consumers have far fewer supermarkets, shops and service centers available, and thus fewer chances for competitive price reductions. As a result, she says, "inflation has a disproportionate effect on rural consumers."

Another factor: Rural areas are far from major distribution centers, so it costs more to ship them food and other items. With soaring fuel prices raising transportation costs so much, this factor becomes increasingly important.

MANUFACTURERS MOVE IN

But the main long-run reason for rural inflation is growth. More manufacturers have moved to rural areas in the last decade, bringing job opportunities with them and job seekers in their wake; a larger population means increased demand. Also, the incoming manufacturers often pay higher wages than their new communities have been used to, forcing other local employers to raise their own wage scales to compete for workers. That spurs inflation in two ways: First, employers have to charge higher prices to make up for their higher wage costs; second, workers' higher income fuels the demand for goods and services.

The National Planning Association, a Washington group that studies regional trends, says that between 1967 and 1975, personal income rose at an average annual rate of 4 percent in rural areas, 3.1 percent in urban areas. Mr. de Torres of the Conference Board says that the gap in per capita income between rural and urban areas narrowed considerably in the last decade and may close completely by 1985.

Rural America isn't monolithic, of course. More-remote areas certainly aren't attracting their share of the growth, and the rural areas especially hard hit by inflation are those in fast-growing regions, says John Zamzow, vice president of regional economics for Chase Econometrics Associates.

Newport, the seat of Orleans County in north-central Vermont, is about 80 miles northeast of Burlington, which is one of the fastest-growing communities in the U.S. Orleans County's population, 20,153 in 1970, will reach an estimated 23,118 next year, an increase of 14.7 percent. About 65 percent of the work force is employed in manufacturing.

A THOUSAND MORE JOBS

During the decade, about 10 new companies have moved into Orleans County and nearby Essex County, and about five other companies have expanded. All this industrial activity has meant 1,150 more jobs in the two counties, most of them in Orleans County. And just last year, a major interstate highway, I-91, was completed, linking the community with Boston and Montreal.

Slowly but surely, per capita income in the county has risen, to $4,851 in 1977 from $2,644 eight years earlier. Slalom Skiwear Inc., a local company bought out by three partners with big-city ideas, now pays workers with at least one year's experience an average of $4.75 an hour, far more than most other local companies.

But prices have risen, too. Nationally in the last year, according to the consumer price index, the price of men's haircuts has risen 8.9%, milk 12.2%, refrigerators 4.2% and gasoline 49.4%. Here in Newport, men's haircuts at Roger's Barber Shop went to $3.50 from $3, an increase of 16.7%; the supermarket price of a quart of milk from a local dairy rose 15.9%; the price of refrigerators at Quality Appliances climbed 15%; and regular gasoline at the Mobil station went to 99.9 cents from 65.9 cents, a 51.6% increase.

Probably the biggest reason for the sharp price increases is the soaring cost of fuel, local merchants say. E. M. Humphrey, owner of Quality Appliances, says that the price of a Whirlpool refrigerator has gone up 15% this year—after "hardly changing at all for several years"—primarily because the cost of shipping the item from suppliers in Boston and Springfield, Mass., has doubled. "We're a long way from our suppliers" compared with city stores, he says.

Marvin Needleman, president of Needleman's department store, says that although he doesn't factor in the increased cost of freight over and above a regular markup, he "may have to" if shipping costs continue to rise. Fuel oil for heating has climbed so sharply, he says, that despite a 6% increase in sales this year, the store won't show an improvement in profit.

Like Mr. Needleman, some other businessmen in Newport have been sacrificing profit margin rather than raise prices high enough to cover all cost increases. Frank La Chance, proprietor of Frank's Steak House, raised his prices about 12%, close to the 11.3% national average increase for restaurant meals. Price increases to cover not only rising food costs but also fuel expenses "should have been 15%, but we're sacrificing profit margin" to keep customers, Mr. La Chance says.

CUSTOMERS SUFFER

While the merchants and shopkeepers of Orleans County are feeling the pinch of this year's crippling round of inflation, their customers ultimately suffer most. Terry and Ruth Moore, for example, a 36-year-old couple with four children, get most of their food in supermarkets; "specials in supermarkets are nothing compared with those in city stores," Mrs. Moore says, because of the distance the processed food has to be shipped.

Mrs. Moore, who works as a nurse, says that the family does have a garden but that it supplies no more than 15% of their food. Any cost savings from the garden, she says,

must be offset by the cost of supplies for putting up food and the cost of electricity for storing it in a freezer.

The Moores, who have a joint income of $30,000 a year, say that the cost of fuel oil to heat their eight-room home will jump 30 percent this year, to $1,000. While the couple have cut expenses by installing a furnace that burns both oil and wood and using wood to meet half their needs, they say that it takes too much time and energy to heat entirely with wood.

"I could get up at 3 a.m. to put wood in the furnace," Mr. Moore says, "but I've got to get up at 5 a.m. to go to work." Mr. Moore is a production manager at Skiwear.

The Moores, like the Beckers, are considering selling their pickup truck and making do with one car. Both husband and wife have to commute 28 miles round-trip to their jobs, but they travel in the same general direction, and just running and maintaining two vehicles in the severe northern climate now costs a hefty $235 a month, or over 12 percent of the Moores' after-tax budget. So "the truck is a luxury," Mr. Moore says.

ORDERING FROM CAMBRIDGE

Because rural stores are generally too small to reap the efficiencies of bulk buying, Jerry Gibbs, a writer on fishing, and his wife, Judy, didn't even check the local photography shop when they needed a new part for their 35-millimeter camera. They ordered the item from a store in Cambridge, Mass., at a 20 percent discount. Stores in Newport, Mr. Gibbs says, "pretty much sell at list price."

House prices in Orleans County don't appear to be rising so steeply and are still below those in major cities. They nonetheless climbed 40% in 1977–78 in the better part of town after holding their own in the prior three years, says Doug Stewart of John Campbell Realty. This past spring, price increases came to a halt because mortgage money dried up, Mr. Stewart says. Yet the average home in the better part of town costs between $30,000 and $50,000, he says, and those outside the city limits cost more.

Home prices, moreover, don't tell the whole housing story, for rents climbed by between 22 percent and 28 percent this year after annual increases of only 10 percent in the prior two years, according to R. F. Hamlett Inc., a rental agency.

Such increases figure to continue as local employers keep raising wages to stay competitive with the newer employers. Deane Wheeler, manager of the local office of Vermont Job Service, a liaison agency between employers and employes, says the community is becoming more citified than ever before.

"What it boils down to," he says, "is that the newcomers are creating what they came to escape." ●

WITH TAXFLATION, SO-CALLED TAX CUTS ARE NO ANSWER

● Mr. DOLE. Mr. President, many of the opponents of indexing the Federal income tax for inflation base their arguments, not on economics, but on political considerations. They claim, in effect, that inflation-induced increases in the rate of the income tax are periodically offset by tax cuts. According to this argument, Congress recognizes the impact of inflation on taxes every time it passes a tax cut. Over time, these cuts supposedly keep the overall effective income tax rate fairly stable.

This argument is wrong as a matter of fact and as a matter of policy. In point of fact, periodic tax cuts compensate for inflation only if you look at certain time spans and carefully selected income levels. For the average taxpayer, the effective rate of tax has increased over time, despite periodic tax cuts.

This fact is demonstrated dramatically by an analysis prepared by the Joint Committee on Taxation. This analysis examines the effect of inflation on the income tax liability of a typical family of four. For purposes of this analysis, an income level of $17,105 in 1978 is chosen, and the base tax year is 1964. Income is assumed to change with the Consumer Price Index so that purchasing power—the measure of real income—is constant.

Given these assumptions, the tax rate rises from 8.1 percent in 1964 to 9.7 percent in 1979. This is despite tax cuts over that period, which occasionally reduce the rate. Barring tax cuts in the next 2 years, the effective rate of tax will continue to rise to 10.8 percent in 1981. That would be a tax bite a third again as large as the rate in 1964. So much for the theory that periodic tax cuts compensate for the effects of inflation.

Tax cuts no doubt do compensate for inflation for some people, over some periods of time. But it is apparent that they do not do so consistently or equitably, and that taxes continue to rise over time because of inflation. It is false and unfair to claim that periodic tax cuts are an adequate answer to the effects of inflation on taxes.

The argument for periodic tax cuts is also wrong as a matter of equity. How can politicians claim that they are cutting taxes when at best they are restoring part of an automatic tax increase caused by inflation? It is unacceptable to allow inflation to remove the obligation on representatives of the people to raise taxes when necessary and to act to balance revenues and expenditures. Inflation provides too easy an out for politicians, and that may be one reason why our economy is in its present state. It is time to remove that device for our politicians to evade their responsibilities.

Mr. President, the way to do that is to pass the Tax Equalization Act, S. 12, which I have introduced. The Tax Equalization Act would automatically compensate each year for the effects of inflation on taxes. It would adjust the income tax brackets, personal exemption, and zero bracket amount to take account of inflation. Phony tax cuts would no longer be available as a political gimmick.

Now that we know that occasional tax cuts do not do the job, we have the duty to address the problem of inflation and taxes head on. We can do it by passing S. 12, and there is no excuse for further delay on this issue.●

FUTURE OF FEDERAL R. & D. POLICIES

● Mr. SCHMITT. Mr. President, on October 24, my distinguished colleague from Maryland (Mr. MATHIAS), addressed the Institute of Electrical and Electronic Engineers on the future of Federal R. & D. policies. I wish to commend Senator MATHIAS on his perceptive insights into the difficulties facing Government R. & D. in this era of balance budget efforts. I ask that my colleague's speech be printed in the RECORD.

The speech follows:

R. & D. FOCUS ON THE FUTURE

Franklin Roosevelt once began a speech to the Daughters of the American Revolution by saying "My fellow immigrants . . ."

Maybe I should begin today by saying "My fellow government employees . . .", because I feel a great common bond with you. Each of us—in a different way and from a different office—is in business to serve the public. You, through your membership in the Institute of Electrical and Electronic Engineers, have committed yourselves to promoting the public good in a variety of important ways. You have banded together especially: to enhance the quality of life for all people throughout the world through the constructive application of technology in its field of competence, and to promote understanding of the influence of such technology on the public welfare.

I applaud your mission and hope to take advantage of your offer of assistance. Your participation in the legislative process can have a great impact on what we do. Engineers are trained to solve problems and we need problem-solvers now more than ever before, because we face more, and more complex problems today than at any other period in our history.

We also need leadership which I hope you can help provide.

The prophet Micah warned of a time when "(t)he face of the dog is the face of the generation." Scholars have puzzled over that phrase for centuries, and no one can say for sure what it means. But, a good friend of mine from Silver Spring has convinced me that the interpretation offered by a 19th Century Rabbi makes a great deal of sense.

The Rabbi pointed out that in biblical times people traveled by horse and wagon, often with their dogs running alongside. When the road was straight, the dogs would run ahead of the wagon, leading the way. But when the wagon came to a fork in the road, the dog would hang back, uncertain, watching the wheels for the first hint of which fork to take. As soon as the wheels turned ever so slightly, the dog was off again, barking bravely, leading the way.

I hope that the face of our generation won't be like the "face of a dog", with our leaders watching anxiously to see which way the wheels will turn.

The 193,000 members of the I-triple-E can help prevent. You are future-oriented. You control the facts that bring the future into focus and you can point us confidently down the right path. Because you are all with the government, you have a special insight into what needs to be done here and how best to get it done. You can set an example for your colleagues around the country by getting constructively involved in the process of governing. Your non-Washington colleagues will look to you for advice, and they will look to you for results.

One question that we need your advice and your help to answer is how best to use the limited funds we have available for Research and Development?

The country is in the throes of Proposition 13 fever with attacks on government spending being mounted on almost every front. And while I don't want to sound alarmist, I think we should all face the fact that many politicians, economists, and voters think the government has no business spending taxpayer money to develop products or processes that could be developed by private enterprise.

Senator Proxmire claims that certain federal R & D—specifically Independent R & D and Bid and Proposal (IR&D/B&D)—helps entrench established firms and freezes out newcomers. He calls this R&D a "taxpayer handout to the large defense firms with inadequate expenditure accountability."

Many fiscal conservatives agree with Senator Proxmire. While preparing this talk, I

came across an article by Economist David Soergel, entitled "The Absorption of Private Enterprise by a Protected Monopoly of State Enterprise," which supports this view very forcefully. Among his points, all of which relate to you and the work you are doing, were that:

"(G)overnment employs 70,000 scientists and engineers whose main job is to decide and explore what industry is to later produce . . .;

"The U.S. tax and procurement codes (are manipulated) to such an extent that the nation's new product development money is mainly concentrated in the U.S. Treasury . . .; (and)

"(F)or 1980, . . . Congress will appropriate $30 billion research and development money . . . more . . . than privately-supplied to the nation's R&D effort by all industry."

I'm sure many of you are troubled by the thrust of these observations. Of course, we should bear in mind that he does not say that what you are doing isn't important. Rather, he says that many of you should be doing your important work in private industry.

Because of the overwhelming presence of government-sponsored R&D, both in government agencies and in private industry, he concludes that new firms can't compete with the established firms, that innovation is languishing, and that the whole economy is developing a bad case of hardening of the arteries.

While it would be hard to deny that the country is in shaky shape economically, I would certainly not single out our approach to R&D as the major cause of our troubles. I simply raise these issues to put all of you on your guard. We can't point to past achievements to justify continued funding. To meet the widespread demand for a balanced budget and to combat inflation, Congress has got to make sure that every dollar it appropriates counts. We've coasted along for too long living off the fat; now we're down to the lean.

Let's look at the numbers. Of the total $30.6 billion R&D budget recommendation for fiscal year 1980, the federal government itself will spend about $11 billion; $3.9 billion will go to colleges and universities and $15.7 billion will go to private industry.

We have gone over these figures with a fine-tooth comb in the Appropriations Committee, and, believe me, there's no fat there. The money is all well-invested. But, in the face of mounting criticism of government spending on R&D and in the present atmosphere of economy-at-any-price, $11 billion is a prominent target on the fiscal landscape. It's up to you to show the critics that the people of this country are well served by the current government R&D programs.

That leads me to a larger question and one that requires an immediate answer. The President's Energy Plan will be on the Senate floor in the near future, and we will be asked to decide how best to pursue energy independence while easing the energy shortages we now face. President Carter seeks increased government involvement in the development of energy alternatives. But I am not convinced that is the best course to follow.

The windfall profits tax is at the heart of the plan, and the President wants to use that great increase in revenues to subsidize development of energy-efficient cars and synthetic fuels. With no reflection on the abilities of those in government, I raise the question of who is best equipped to make the technological breakthroughs that we need in terms of new energy production and new fuels. Frankly, I favor the nongovernment solution whenever possible.

It seems to me that a compromise might be worked out to allow an exemption from the windfall rates for that portion of the oil company's new income that is reinvested in energy-related projects. The remainder would be taxed at the windfall rate. This approach would keep the government out of the energy business, discourages without prohibiting the oil companies from buying department stores, and still leave some new tax revenues available for mass transit and fuel stamps.

It would also address the concern that Senator Kennedy has raised in his oil company anti-merger bill, which is now the major preoccupation of the Judiciary Committee, without abridging the basic freedom of the economy and the rights of property.

All of you, but especially those of you from the Department of Energy, have a special perspective on this problem, and I hope that you will let me know what you think of the proposal at the end of my talk.

Another problem that arose last year touches directly on the federal R&D effort—and that is federal patent policy. Our patent system has served this country well since the beginning of the Republic. It protects and nurtures the creative genius of our inventors, and accounts in great measure for the industrial might of the country. Not only does it give the inventor a chance to make a profit from his discoveries, but it also gives his competitors a chance to "invent around" his discovery—refining it, improving it, even making it obsolete.

Abraham Lincoln observed that the patent system "added the fuel of interest to the fire of genius."

But, despite its success, several experts in the field, including Senator Long, Chairman of the Senate Finance Committee, and Admiral Rickover think that changes are needed. In their opinion, the federal government should be entitled to patent rights on discoveries made by university and business researchers who use government funds. They think the government's interest should be in direct proportion to the size of its contribution.

Others maintain that such a policy works against our long-term national interest. For several reasons, they contend that government involvement would make private researchers reluctant to use any government funds, and so slow down the inventive process. First, they say that the government, with no real economic incentive, may be a reluctant partner in the eventual marketing of the discovery. Second, they say that the inventor will lose incentive if he or she has to share the economic rewards that flow from the effort. They conclude that such a policy, in practice, would hamper valuable research.

With this debate in progress, the Department of Health, Education and Welfare put a freeze on the marketing of all inventions made under Department-funded grants to universities that did not hold Institutional Patent Agreements.

I became particularly concerned about this problem when representatives of The Johns Hopkins University came to see me and pointed out that failure to obtain greater rights in an important drug invention would jeopardize efforts to commercialize the drug, resulting in loss of its benefits to the public.

Shortly afterwards, I joined with Senator Dole and Senator Bayh to introduce the "University and Small Business Patent Procedures Act." This bill will solve the problem by allowing universities, non-profit organizations, and small businesses to obtain limited patent protection on discoveries they have made under government supported research, if they spend the additional private money necessary to bring the discoveries to the public. It will restore the "fuel of interest" that Abraham Lincoln thought so important.

The bill addresses a serious and growing problem: hundreds of valuable medical, energy and other technological discoveries are languishing unused under government control, because the government, which cosponsored the research that led to the discoveries, lacks the resources necessary for development and marketing and is unwilling to relinquish patent rights, the step needed to stimulate private industry to develop these discoveries into products available to the public.

The cost of product development exceeds the funds contributed by the government toward the initial research by a factor of at least 10 to 1. This, together with the known failure rate for new products, makes the private development process an extremely risky venture, which industry is unwilling to undertake unless sufficient incentives are provided.

This problem is substantial in HEW, the Department of Defense, the Department of Energy, the Department of Agriculture and the National Science Foundation. But nowhere is the patent situation more disturbing than in biomedical research programs. Many people have been condemned to needless suffering because of the refusal of agencies to allow universities and small businesses sufficient rights to bring new drugs and medical instrumentation to the marketplace.

Science magazine described the dilemma as follows:

"We see the prodigious R&D enterprise, fueled by tax dollars, constrained from diffusing its results because of a public policy barrier. Throughout the enterprise, discoveries sit stranded and aging. Meanwhile, we search for clues to what is wrong with U.S. technological innovation, and how it is that foreign industry can undercut American competition and employment."

The primary policy barrier identified in the article is the federal government's reluctance to grant patent rights.

Our bill would correct this and it has broad support among the scientific, academic and small business communities. Best of all it would cost the government nothing. As a matter of fact, the government stands to have its research funds replenished under a provision of this bill that requires the patentholder to reimburse the federal research money out of royalties and income.

It's time we overcome the barrier to commercialization that now prevails, and begin to realize the benefits anticipated from our federal R & D effort. The Congress must face this issue squarely and establish a federal patent policy that will help government-supported inventions reach the people.

This bill is a good one; it has attracted a great deal of attention in the Senate. Two days of hearings have been held, and we may report it out of the Judiciary Committee in the near future.

I want to leave time for questions but I also want to mention one other area that bears directly on the federal R&D program—technology transfer to state and local governments. Hearings were held in the House this summer and I plan to hold hearings in the Senate as soon as possible. I expect that we will discover new ways to get the fruits of your efforts back out to the people, so local governments can use science and technology to improve the delivery of public services. I hope that some of you will be able to help us find the solutions we seek. I invite you to work with us on this. Take my advice—give advice. We need it.

Senator Long tells a story about his famous father, Huey Long, the Kingfish. Apparently, the Kingfish had downed a cup of cheer too many one night. After fumbling with the keys to his front door for a while, he finally got the door opened, only to trip over the threshold. He landed on his face, just inside the front door and looked up sheepishly to find Mrs. Long looking down at him. Never one to lose the initiative, the Kingfish said, "I'll dispense with my prepared text and take questions from the floor."

And I will do the same right now.●

PRIVATE SECTOR INITIATIVE (PIC) PROGRAM IN NEW YORK CITY

● Mr. JAVITS. Mr. President, last year Congress enacted a new title VII of the Comprehensive Employment and Training Act (CETA) intended to foster improved participation of the private business sector in the hiring and training of the structurally unemployed.

The new private sector initiative program, which is funded at $400 million for fiscal year 1979–80, involves the establishment of local private industry councils (PIC's), composed of representatives of business, labor, education and community-based voluntary organizations. The PIC's are to be fully operational entities at the local level, promoting on-the-job training contracts with private employers, conducting classroom training programs and providing job development, referral and counseling for the economically disadvantaged unemployed. The idea behind the private sector initiatives program is that a partnership needs to be forged between the business community, local government and voluntary organizations in marshalling our resources to relieve severe unemployment distress, especially among youth, minorities, and women.

I wish to report to my colleagues that the private industry council (PIC) of New York City is already fully operational, even though title VII Federal funds are not yet in hand. Under the inspiring leadership of, among others, the New York City business community, PIC chairman Aaron Sadove, PIC president Ted Small, the Central Labor Council, and the Board of Education, the CETA private industry council has made remarkable headway in gaining the commitments of small, medium and large businesses to put the unemployed to work in the private sector and to give them the skills so desperately needed for career opportunities.

The experience of the New York City PIC has been chronicled in the September issue of "You and Youth," a monthly newsletter published by the Vocational Foundation, Inc. of New York, Walter Thayer, chairman, and George J. W. Carson, executive director. Mr. President, I ask that these very instructive articles be printed in the RECORD at this point.

The articles follow:

NYC PRIVATE INDUSTRY COUNCIL FINDS WINNING FORMULA

In 1978, thirty-four demonstration sites in the U.S. were each awarded $25,000 planning grants to prepare for the Title VII Private Sector Initiative Programs. New York City was not included. And yet, one year later, New York City has become the model for what a Private Industry Council (PIC) can achieve.

For example, Skills Improvement classroom training programs with guaranteed job commitments have been arranged for 104 people, all of whom will receive a stipend of $2.90 per hour while in training. Pilot classroom programs include:

A consortium of airlines (and industry which has not been involved with CETA anywhere in the country) has agreed to hire 20 people as airline reservationists at an average of $14,000 annually. The six-month classroom training program is being conducted by Pan Am. The Council for Airport Opportunity, whose members are chief executive officers of all major carriers, agreed to place all graduates.

A seven-month computer course for eight severely handicapped trainees, contracted with Control Data Corp., has hiring commitments from Equitable Life Assurance Society, Morgan Guaranty Trust, Con Edison, Citibank, Chase Manhattan Bank and Control Data. Starting salaries after training will average $16,000.

A major airline is currently designing an experimental program to place women in nontraditional jobs. Twenty-five women will be trained as airplane mechanics.

Fifteen companies have pledged to hire graduates of a seven-month training program for women auto repair mechanics conducted by the Delehanty Institute.

Downstate Medical Center is training 16 home dialysis technicians to be hired by Quality Care Inc. Fifty or more technicans will be trained to serve the $75 million local market in home dialysis for kidney patients.

The National Association of Drug Abuse, an organization serving ex-addicts, referred 20 trainees to a clerical skills training program conducted by the International Career Institute. Companies committed to hiring program graduates include Metropolitan Life, Loews Corporation, Dry Dock Savings and others.

DOING THINGS RIGHT: A PRIVATE/PUBLIC JOINT VENTURE

How has NYC, despite its massive size and complexity, succeeded so quickly? How were the bureaucratic wrangling and political manuevering circumvented in establishing a functioning Private Industry Council? The answer lies in the smooth working relationship established between a hard-working consortium of business interests and a cooperative city government committed to the Private Sector Initiative Program.

THE FIRST STEP: AN INVOLVED BUSINESS COMMUNITY

The Chamber of Commerce, National Alliance of Business and the Economic Development Council were instrumental in developing the plan to establish a PIC in New York City. They proposed a Private Sector Mobilization Program (PSMP) that would:

Recruit and hire top level support staff for the PIC;

Make recommendations to the mayor for PIC membership;

Draft an operational plan for PIC approval; and

Design and operate pilot private sector CETA programs under contract with the City Department of Employment to be expanded when Title VII funds became available.

As models, the business consortium recommended two successful programs—the Chicago Alliance of Business Manpower Services and the Cleveland Jobs Council both of which contract directly with companies to conduct CETA-financed job training programs. Both are permanently-staffed coalitions of small and large businesses that interface with city agencies; identify employer training needs; market programs with local companies; handle paperwork and process requests (in days rather than months). Both have been highly successful in placing CETA workers in private employment.

AN ESSENTIAL INGREDIENT: CITY SUPPORT

During the planning process, New York City's Employment Commissioner and Deputy Mayor for Economic Development assisted the business groups. Ted Small, President of the Cleveland Jobs Council and adviser to the Department of Labor on Title VII, helped design the NYC program. The Koch administration, already committed to private sector involvement in its $500 million CETA program, strongly endorsed the Private Sector Mobilization plan. Koch recognized that involving private employers in training and employing the city's structurally unemployed was imperative, whether or not federal Title VII funds became available.

START-UP FUNDS: THE FINAL INGREDIENT

New York's business consortium identified private funding which would enable them to hire a program director. Grants totalling $100,000 were received from the Rockefeller Brothers Fund, Morgan Guaranty Trust, Chase Manhattan Bank, and the NAB to cover the director's salary, expenses and related costs. The Chamber of Commerce Educational Foundation received the grants on behlaf of the Private Sector Mobilization Program and became responsible for hiring staff and administering city contracts. Ted Small was hired as director of the PSMP and also named Executive Vice President of the Chamber's Educational Foundation. Aaron Sadove, Chairman of the NAB Steering Committee (and Senior Vice President for Employee Relations at Con Edison) became chairman pro-tem of NYC's Private Industry Council. And, the program was off and running.

FROM CONCEPT TO CLIENT TRAINING IN THREE MONTHS

The high level of cooperation between the Private Sector Mobilization Program and the City Department of Employment enabled the program to progress from drawing board to clients in training in less than three months. In September 1978, the Mobilization Program formally became the Private Industry Council. The Board of Estimate awarded PIC a $25.000 planning grant and contracted for CETA, OJT and Skills Training program funds totalling $1.2 million. The city CETA funds enabled Small to hire core staff and test and market programs. In less than six months, PIC funding grew to almost $3.7 million. These grants were made prior to Department of Labor funding for Title VII.

The Central Labor Council, the Board of Education, and the NY Department of Employment joined with NAB and the Chamber in submitting recommendations for PIC membership. The 58-member Private Industry Council was appointed by the mayor and held its first meeting in March 1979. As well as enlisting chief executive officers, Aaron Sadove suggested concentrating on business representatives who have operating responsibilities for hiring in their own companies.

The Private Industry Council was mandated to review all CETA Title VII funded projects. Its specific functions are to:

Identify specific manpower needs of the private business sector.

Design cost-effective programs in skill-shortage areas.

Recruit and place eligible, qualified candidates in training programs.

Provide follow-up services to employers and newly placed employees to minimize employer problems and maximize employee retention and success.

Cooperate with local, state and federal economic development agencies.

THE KEY TO PIC STAFFING: PRIVATE AND PUBLIC EXPERIENCE

Small was successful in assembling qualified staff by offering salaries competitive with private industry. Experience in both the private and public sectors allowed them to assess employer needs and tailor individual programs accordingly; to negotiate and draft contracts with city agencies that would ensure approval; and to screen and counsel CETA referrals.

As a result, the Vice President responsible for supervising all employer contracts was formerly Associate Director of Young & Rubicam and the person who had coordinated their highly regarded on-the-job train-

ing program. The Director of Recruitment and Placement, whose responsibility is to match people to training positions, was formerly Manager of Equal Employment Opportunity programs for Con Edison and also worked in the Pan Am Training Department. The Comptroller comes from the City Department of Employment. There, she helped develop fiscal systems and provided technical assistance to OJT and training contractors. The Director of Youth Programs worked for Mutual of New York prior to helping develop a highly successful Board of Education counselling and vocational service for Bronx youth. The entire 28-member staff reflects a similarly high level of competence. (A staff of seventy is projected for 1980, when federal funds are allocated.)

PILOT PROGRAMS: RESEARCH AND DEVELOPMENT A MAJOR PRIORITY

Ted Small and his staff work directly with employers to assess their employment and training needs. During the pilot phase, they developed a variety of small programs with available funds to serve as prototypes for expanded Title VII activities.

In the first nine months agreements for training and hiring have been received from 67 companies, both large and small. Four hundred CETA clients have been placed to date; this will expand to 700 by the end of 1979. (In 1980 when federal Title VII funds are committed; PIC will serve more than 5000 CETA clients.)

Programs focus on four priority categories:

(1) Creating new opportunities for CETA clients in occupations from which they have largely been excluded;

(2) Serving small and medium-sized businesses which need government resources to train and employ workers in skill shortage areas;

(3) Targeting special programs to meet needs of CETA clients who have not been seved effectively in the past (e.g. the handicapped and rehabilitated drug addicts;)

(4) Leveraging economic development with CETA-funded training incentives.

Training efforts are not limited to the Skills Improvement Classroom Training. They include placing individuals in on-the-job training, mainly with small and medium-sized employers. The PIC develops training capability within companies or within industries. Outside training organizations are used only when endorsed by the involved employers. Some other elements to the program are:

YOUTH EMPLOYMENT

The twelve member banks of the New York Clearinghouse are working with PIC on an ongoing program in banking skills which will prepare 200–300 young people for jobs. Training will be directed to skill shortage areas identified by Clearinghouse members, such as tellers, clerk-typists, and computer programmers.

A summer Vocational Exploration Program, a pilot alternative to the troubled public summer jobs program, has placed 450 young people in seven-week work experiences with 80 private employers. This major school-to-work transition program, one of the largest in the U.S., will also provide career information and training in job application and interviewing techniques. Several unions, including the United Auto Workers and Textile Workers, assisted in locating jobs. Con Ed, Young & Rubicam, Equitable Life Assurance Society, New York Life, ADT, Western Electric and the Port Authority are among the companies in which youth are reeciving exposure to work and training.

ON-THE-JOB TRAINING

The Council is directing its on-the-job training marketing efforts to small and medium-sized companies which represent 175,000 of the city's 190,000 employers. Many report backlogs of orders because of shortages of skilled, productive workers. A letter-writing campaign to 6,000 companies on the Dun & Bradstreet list, staff contacts and referrals from the Chamber network, NAB, and more than 20 community groups, generated inquiries from hundreds of small and medium-sized employers. A series of meetings for small businesses in each of the boroughs is another marketing approach.

Early results indicate a larger need for OJT than anticipated. They also uncovered a great deal of fear and suspicion of CETA and government programs in general. However, after six months, the PIC contracted 65 percent of its OJT funds for the year. 325 placements have been made in 52 companies in the first eight months by an eight-person marketing/counselling staff.

Three out of four OJT placements are with companies having less than 150 employees. Usually, one or two employees are placed with a company, but one company took twenty. The Council has received repeat orders from 25 percent of its first 42 employers. One of these repeats is Equitable Bag Company in Queens. The company had never been approached to participate in CETA programs. When contacted by a PIC staff person, the company agreed to hire and train two people and later contracted for four more. PIC helped Equitable design a curriculum, find an EEO-validated aptitude test, screened applicants and completed 95 percent of the paperwork.

The same level of service is being offered to a wide range of companies in every borough. The Castro Convertible Company is training upholsterers. A major architectural firm is training eight people in drafting, for jobs which will pay $10,000. Harper & Row is planning a major program involving a variety of publishing occupations. Other placements are in: auto and body repair, ship chartering, building maintenance, machine operation, warehousing, general production, machine repair, and a broad range of service industries.

In each case, the PIC provided funding and technical support, reduced paperwork and prescreened trainees. Companies are reimbursed for half of the CETA employee's salary for training periods ranging from 12 weeks to six months. Retention rates to date are over 75 percent.

THE BOTTOM LINE: ECONOMIC DEVELOPMENT

Many cities which successfully compete for new production facilities stress not only straight economic incentives (such as tax abatements), but also programs to ensure the availability of a productive work force. New York City, with its large pool of relatively low-wage, potentially productive people, has never used this approach. Now, a major goal of the Private Industry Council is to help the City Office of Economic Development, the Business Marketing Corporation, the New York Chamber of Commerce and Industry and other groups in their economic development efforts by taking this approach.

One new venture is the soon-to-be-built Hunts Point Truck Plaza in the South Bronx which will serve the thousands of trucks and truckers going through New York City each day. When completed, the facility will provide the city's first comprehensive service stop, including fuel, food and mechanical service, lodging, retail shops, etc. Here, PIC allocated CETA funds to supplement other economic development incentives. The first fifty permanent hourly employees of the Hunts Point Truck Plaza will be PIC trainees.

Another dramatic example of how this approach can work is provided by Allomatic Corporation, a chemical manufacturer with several facilities in Nassau County. Allomatic decided to consolidate its plants in Queens and will have its additional manpower needs met in part through a PIC OJT contract for 30 trainees.

THE BIG PAYOFF: $15.3 MILLION IN FEDERAL FUNDS

The decision to use existing CETA money, supplemented by private contributions, to get staff and program underway before federal funds were allocated, has paid off for New York City. When federal Title VII grants were announced for the last quarter of FY 1979 and FY 1980, New York City's exemplary program was targeted for $15.3 million. This will make the NYC Private Industry Council the largest private sector-oriented employment and training program in the nation. Small and his staff now have nine months experience in marketing and implementing pilot programs and have begun to convince employers that subsidized training can answer their need for skilled workers.

When the federal funds are received, the Council will be operating a program roughly four times the size of the original pilot. "The difference," says Small, "is very significant, but I am confident that we can be successful. We have the staff capability, strong support of the City Department of Employment, the Chamber and other business groups . . . and there's a new optimism in the city . . . a willingness of people to get involved."

EMPLOYERS RATE NYC PIC EXPERIENCE/CETA EMPLOYEES

The Rockefeller Brothers Fund financed an independent evaluation by the Polytechnic Institute of New York of the first fifty NYC Private Industry Council on-the-job training contracts. Preliminary reports based on interviews with ten companies were extremely positive. Researchers spoke to the contact person at the company, usually the personnel director or owner, and the first line supervisor responsible for training the individual hired. Following are some of their initial findings:

In general, PIC referrals were found to be of higher quality than those from traditional sources.

Employers found that problems encountered with PIC referrals were no different than with usual hirees.

Several indicated that when a problem arose, the PIC counsellor responded promptly and visited the company. All were satisfied with the resolution whether it involved counselling or termination.

Hiring criteria most important to employers were "positive attitude"—first; "aptitude"—second; and "financial incentive"—third. First line supervisors agreed on the first two but substituted "long term employment" as third in importance. Rating PIC referrals on these criteria, all ten reported the "attitude" better or at least slightly better than people from traditional referral sources. 60 percent of the respondents said the quality of the trainees was beyond their expectations and the other 40 percent said they were about what they expected.

All indicated extreme satisfaction with the PIC staff, with their "quality of professionalism" and the prompt service provided.

All companies intend to continue working with PIC for future manpower needs.

8 out of 10 indicated they would recommend PIC to other employers in their industry. Two said they would not refer since it would "interfere with their competitive advantage."

Following are excerpts from several of the company interviews:

A MACHINE TOOL COMPANY

Desperate for personnel when contacted by PIC, the company was visited by a staff person who "did her best under the pressure." According to the owner, "one trainee was slow, unmotivated and started coming late." Prior to termination, he called PIC and reports, "The PIC counsellor showed up promptly for an appointment, talked with the problem individual, and that employee is

still with me and has a changed attitude . . . I'll contact PIC for all my new people."

A LARGE QUASI-PUBLIC AGENCY

Despite three years of prior unsatisfactory CETA experience, the personnel director decided to take another chance and hired eleven building and grounds attendants through PIC. He indicated concern with "cost, employee attitude, and retention," and reported that "all these are being met . . . I'm very satisfied with the PIC staff response—they're client-centered and empathetic and are helping me."

A SMALL BODY REPAIR SHOP

The owner had a negative experience with prior CETA referrals. When called by PIC staff, he found them "smart and concerned." He took a chance and his line supervisor is satisfied. The supervisor reports, "the PIC trainees were good from the beginning . . . they were willing to work, ambitious and punctual. The PIC counsellor stresses punctuality . . . Most kids we hire off the street have a problem but these trainees were clean."

A MAJOR BROKERAGE FIRM

The Personnel Director was referred to PIC by a company officer and hired three clerks. He comments . . . "these trainees would not break into this industry unless a vehicle such as PIC were developed . . . The personal contact was critical . . . We have been taking trainees for four years through private agency sources. . . . We normally have a high turnover on slow-track positions. These people accept slow-track and may cut down our turnover . . . they are well-disciplined, it's a key element." An added advantage in his view is compliance. "The biggest payoff is help with minority recruiting with E.E.O.C. . . . we need to hire from a broad spectrum . . . it's an industry norm, a way of doing business. PIC seems to have worked out well . . . We plan to hire all three trainees for permanent jobs . . . We will continue to work with PIC."

Mr. JAVITS. Our experience in New York City demonstrates that we can engage the private sector in hiring and training the unemployed if we establish the proper mechanisms at the local level and if we provide the appropriate financial inducements. As I pointed out in the Senate during our consideration of the Labor/HEW appropriations bill for fiscal year 1980, when we urged the Senate conferees to take a very hard look at the $325 million included for fiscal year 1980 in the House bill—and which, by the way, the Senate accepted in the end—this new approach can pay enormous dividends in tailoring CETA programs to the needs of local employers.

Title VII gives us a new string for our bow, in moving CETA closer to local labor market conditions and in giving local business a big stake in this federally funded employability development program. Most importantly, however, title VII and the $400 million we have provided for 1979 and 1980 gives the endemic unemployed a new opportunity for career jobs and training.

I hope my colleagues and their staffs will look over our New York experience and see if there are lessons in it for communities in their own States.●

FOREIGN COKE SUPPLY INADEQUATE FOR U.S. NEEDS

● Mr. HEINZ. Mr. President, because of the growing decline in domestic coke production capacity, our Nation's steel industry has been forced to import coke to satisfy the needs of its blast furnaces. In 1978 alone, the 5.7 million tons of coke we imported added a half-billion dollars to our trade deficit. Unless decisive steps are taken now, we can expect these figures to double by the mid-1980's. An amendment that I am offering to the Windfall Profits Tax Act (H.R. 3919) would provide an incentive toward the more timely rehabilitation of decaying coke production facilities by making coke ovens eligible for the alternative energy property investment credit.

What makes the decline in domestic coke production capacity an especially acute problem is that there is some question about whether, in the future, we will be able to import enough coke to meet our needs, even if we are willing to pay the price and further worsen our trade deficit. Imported coke is readily available at the moment, but only because it is not needed abroad. In West Germany, our principal foreign coke supplier, the steel industry is currently operating far below capacity. But should the worldwide demand for steel increase, West German coke producers would be obliged, under Common Market Charter, to accord priority to their domestic customers. The price of coke exported to the United States would rise steeply—that is, if there was any coke left over to be exported. Other nations could not be counted on to make up our coke deficit, since they would be even harder pressed to satisfy their own requirements. We could be faced with the sorry spectacle of an American steel industry forced to remain idle in periods of peak demand, while American steel needs were met by increased quantities of higher priced imported steel products.

Last week, at my request, two sections of a study of the U.S. coke industry prepared by Fordham University's Industrial Economics Research Institute were inserted in the RECORD. Today I am asking that a third section be printed, in which the inadequacy of our overseas sources of coke is described in detail.

The material follows:

SECTION 3: EVALUATION OF OVERSEAS SOURCES OF COKE SUPPLY

The United States has enough coal to last for several centuries, and as Section 1 indicates, a very substantial portion of this is good metallurgical coal for the production of coke. Indeed, the United States has exported and currently is exporting millions of tons of metallurgical coal to other countries for use in their steel industries. As a result, there is no dependence on imports for coal needed to produce coke for the U.S. steel industry. By contrast, the nation's coke industry, beset with a steady erosion of its capacity, has been incapable of supplying domestic requirements. It is indeed an anomalous situation when the United States, which has the worlds largest and richest supply of metallurgical coal, must import substantial quantities of coke to meet the needs of its steel industry. This is particularly unusual when one considers that the United States exported some 30.0 million tons of coking coal last year.

TRENDS IN STEEL OUTPUT AND COKE IMPORTS

At times prior to 1973, small tonnages of coke were imported. In 1972, for example, the United States imported 185 thousand tons of coke, virtually all of which (171 thousand tons) came from Canada. With the steel boom in 1973–1974, there was a dramatic change in this situation. Because the demand for steel rose abruptly, supplies of coke were not adequate to care for blast-furnace requirements. The year 1973 witnessed an all-time record output at the nation's steel and blast furnaces, with the production of 150.8 million tons of steel and 101.0 million tons of pig iron. In that year, the United States imported 1.1 million tons of coke, virtually all of which came from West Germany and Canada, the former country providing 732,000 and the latter 290,000 tons.

The demand level for steel was maintained through 1974; however, production fell by 5.0 million tons, since maintenance and raw-materials problems made it impossible for the industry to operate at full capacity. The principal problem with respect to raw materials was the lack of sufficient coke, and as a result, the industry imported 3.5 million tons in 1974. The leading supplier by far was West Germany with 2.8 million tons.

A number of reasons can be given why the U.S. coke industry was not adequate to its task. Ovens had been driven hard in 1973 to maintain production, and there was need for extensive maintenance and repairs. Further, the environmental protection agencies on the local, state, and federal levels had begun to press hard for emission controls to reduce air pollution. The beginning of rigorous enforcement of these regulations was in 1973, and by 1974 they had a definite impact on coke production.

In 1975, the steel industry experienced a dramatic drop in production, as raw steel output fell by 29.0 million tons and blast furnace output dropped by 16.0 million tons. Coke-oven capacity in the United States was more than adequate to serve the needs of blast furnaces at that production rate. Nevertheless, 1.8 million tons of coke were imported, due principally to contractual commitments and the desire on the part of some plants to stockpile coke in anticipation of a quick revival of iron and steel output. This revival did not materialize to the hoped-for extent, as steel production rose by some 11.0 million tons and pig-iron output by only 7.0 million tons in 1976. Coking capacity was still more than adequate to supply requirements at this rate of production. Imports of coke in 1976 dropped to 1.3 million tons.

The year 1977 was somewhat disappointing, as steel production dropped 3.0 million tons below the 1976 level and blast-furnace output fell by more than 5.0 million tons. In spite of this decline, there was an actual increase in coke imports of about 500,000 tons as they rose to 1.8 million tons. This increase reflected a sharp decline in domestic coke production of almost 5.0 million tons.

In 1978, there was a significant increase in raw steel production, as output rose from the 1977 level of 125.3 million tons to 137.0 million tons. The basic-oxygen process registered an increase of 6.0 million tons, and thus more pig iron was required. This also amounted to an additional 6.0 million tons over the previous year and brought with it a need for added coke supply.

Unfortunately, coke production in the United States, including that for blast-furnace use, has been declining, and the drop between 1977 and 1978, at the time when coke was needed, was quite sharp, falling from 53.5 million to 48.6 million tons. As steelmakers sought to sustain their iron production, coke imports rose in 1978 to an all-time record of 5.7 million tons.

Coke imports were absolutely necessary in 1978, if the industry was to produce enough steel to meet demand. However, it must be recognized that they had their impact on the economy. The 5.7 million tons imported required payments to foreign countries of $408 million; this represented the cost of coke at the point of origin and thus did not

include freight and insurance. With these items added, the figure would be closer to $500 million, which constitutes a considerable contribution toward the deficit in the balance of payments.

Imports also carried a high price in the loss of job opportunities. Based on the average manning requirements for a number of coke-oven facilities and their average output of 1.2 tons per man-hour, approximately 3,400 steelworker jobs would have been generated by producing an additional 5.7 million tons of coke in the United States. Further, since virtually all the coke imported was made from overseas coal, it also entailed lost job opportunities for U.S. mine workers. Given prevailing coke-from-coal yields, 5.7 million tons of coke represents approximately 8.0 million tons of metallurgical coal, which would have generated 6,000 additional jobs, based on per ton employment requirements for production workers at the mines and coal washeries, as well as supervisory and maintenance personnel.

The major share of 1978 coke imports (3.973 million tons or 69.4 percent) came from West Germany, with Japan, Argentina, the United Kingdom, Italy, the Netherlands, Canada, and France accounting for significant tonnages, ranging from 93,000 from France to 335,000 from the Netherlands. During the first eight months of 1979, coke imports totaled 2.891 million tons, with some shifts occurring among the countries of import origin. Although West Germany remained the dominant supplier, its share of total imports fell to 59.6 percent or 1.722 million tons. Meanwhile, imports from Japan rose considerably to an 8-month level of 647 thousand tons, more than twice the volume of all of 1978. Indicative of their low operating rates, direct coke sales have been made by Japanese steel companies, including Kawasaki, which contracted for 50 thousand tons with one U.S. steelmaker. Other countries increasing their exports to the United States included France and Belgium, whose 8-month totals reached 225 thousand and 111 thousand tons respectively. Countries reducing their U.S.-bound exports included Italy, the United Kingdom, the Netherlands, and Argentina.

Given the current level of imports, which totaled 504 thousand tons in August, it is certain that 1979 will be the second highest import year in history, with an annual volume exceeding 4.0 million tons. The active steel market in the United States, which allowed our steel industry to operate at about 86 percent of its potential in 1978 and during much of the current year, has not been shared by Japan or Western Europe, where steel output generally has remained at 70 percent to 75 percent of capacity. As a result, coke has been available for export, since it has not been needed at home.

SUPPLY CAPABILITY OF OVERSEAS COKE PRODUCERS

One must raise the question as to whether this coke would be forthcoming if the steel industries of Western Europe and Japan experienced a return to operating rates of 85 percent to 90 percent. This question has particular application to Western Europe, since the European Economic Community (EEC) charter provides that member countries accord priority to their domestic needs in the event of basic material shortages. Accordingly, the sources of U.S. imports must be evaluated in terms of their reliability should there be a significant increase in steel activity in the coke-exporting countries.

The most important source is West Germany, which has been supplying large quantities of coke to the United States since 1973. The other countries have supplied relatively small amounts during the same period, and some have supplied no coke at all for a number of years. Table 14 indicates the imports of coke to the United States by country of origin over the period 1972 to 1978. An examination of the availability of coke in the major exporting countries will serve to indicate their reliability as a supplier to the U.S. steel industry.

COKE SUPPLIES FROM WEST GERMANY

West Germany has been supplying the United States with coke produced from coal in the Ruhr. The existence of coal in this region is in great part responsible for the growth of the German steel industry in its present location. Coal mines and coke plants are located very close to each other; so close, in fact, that in some instances coal is brought from the mine by conveyer belt. In no instance is there need to transport coal more than forty kilometers from the mine to the coke plant.

Most of the coke in the Ruhr area is produced by Ruhrkohle, a company organized in 1968 through the merger of a number of coal and coke properties, many of which belonged to the steel industry. Today this company is one of the largest coal and coke producers in the world. In addition to its numerous coal mines, which produced 69.9 million tons in 1975, Ruhrkohle has a number of coke-producing plants. In 1975, there were 21 such plants with a capacity to produce approximately 24.0 million tons, the largest operation in the Free World.

TABLE 14.—U.S. IMPORTS OF COKE BY COUNTRY OF ORIGIN, 1972–78

[Thousands of net tons]

Country of origin	1978	1977	1976	1975	1974	1973	1972
West Germany	3,973	1,222	891	1,388	2,762	732	----
Netherlands	335	74	17	100	63	----	----
Japan	286	9	11	9	----	----	----
United Kingdom	235	19	----	48	383	9	----
Argentina	233	30	21	----	----	----	----
Italy	211	174	----	43	8	32	----
Canada	131	120	134	148	195	290	171
France	93	152	113	----	2	----	----
Australia	59	----	----	----	----	----	----
Norway	50	----	----	----	56	----	----
Belgium-Luxembourg	40	18	112	4	----	----	----
South Africa	36	----	12	59	34	----	----
Sweden	27	11	----	4	----	----	----
Austria	13	----	----	----	----	----	----
U.S.S.R.	----	----	----	----	29	----	----
Czechoslovakia	----	----	----	----	----	12	----
New Zealand	----	----	----	----	8	----	----
Hungary	----	----	----	----	----	3	----
Others	----	----	----	16	----	----	14
Total	5,722	1,829	1,311	1,819	3,540	1,078	185

Source: U.S. Departments of Commerce and Interior.

Ruhrkohle serves not only the West German steel industry but exports a considerable amount of coke to other countries in Western Europe and recently to the United States. Of the almost 4.0 million tons the United States received from West Germany in 1978, Ruhrkohle accounted for 2.2 million tons.

Since 1976, there has been a reduction in the number of Ruhrkohle's coke plants from 21 to 14, with a corresponding reduction in capacity of about 5.0 million tons. Thus, current capacity is in the area of 18.0 million to 19.0 million tons, spread over its 14 plants. Capacities range from 2.9 million tons at its largest plant, Zollverein Bergwerks, where there are 10 batteries and 304 ovens, to 630,000 tons at its Heinrich Robert plant, which has five batteries and 118 ovens. The plants have been well maintained and produce efficiently. Their average age is 12 to 15 years, although some are as old as 28 to 30 years. One of the most modern plants is Osterfeld which has two new batteries built in 1973 with 96 ovens an a total capacity of 1.57 million tons per year.

Ruhrkohle's coke sales during the past five years have declined somewhat as its capacity has been reduced and the West German steel industry's production dropped. Table 15 lists its sales from 1973 to 1978.

Because of a policy of maintaining employment, coal is mined and coke is produced and stockpiled when there is insufficient demand to take the full output. Stockpiles have varied in size over the years; the stockpiled tonnage at the end of each year since 1976 is shown in the compilation below.

TABLE 15.—SALES OF COKE BY RUHRKOHLE: 1973–78

[Millions of tons]

	1973	1974	1975	1976	1977	1978
Iron and steel industry:						
Federal Republic of Germany	12.4	14.8	8.5	8.5	7.7	8.3
Rest of EEC	3.9	4.6	3.2	2.5	1.5	.6
Other countries	1.9	3.1	.7	.9	1.4	3.1
Total	18.2	22.5	12.4	11.9	10.6	12.0
Other consumers:						
Federal Republic of Germany	3.7	4.1	3.0	2.7	2.3	2.0
Rest of EEC	.3	.3	.2	.2	.2	.2
Other countries	.5	.8	.5	.5	.6	.5
Total	4.5	5.2	3.7	3.4	3.1	2.7
Grand total	22.7	27.7	16.1	15.3	13.7	14.7

Year-end	Tons stockpiled (millions)
1976	8.7
1977	10.8
1978	9.8

By July of 1979, the stockpile had dwindled to 6.2 million tons, of which approximately 4.0 million tons were blast-furnace coke. In June of 1979, the stockpile had been reduced by 770,000 tons.

Ruhrkohle's daily production is 40,000 to 41,000 tons of coke. This constitutes 54 percent of total West German output. In addition to Ruhrkohle, there are two other companies producing coke for sale; one, Eschweiler Bergewerks-Verein, controlled by Arbed, produces 11.7 percent of total West German output, while the other, Saarbergwerke produces some 5.8 percent. The three coke producers provide for 70.8 percent of West German production. Most of the remainder comes from the steel companies, with a small amount, some 3 percent from gas cokeries.

The West German steel industry will produce about 48.5 million tons of raw steel in 1979. This is considerably below its record output of 58.4 million tons in 1974. Further, the other Western European countries to which Ruhrkohle shipped coke in 1978 have been operating considerably below their capacities.

The question must be posed as to whether or not Ruhrkohle could satisfy a large export demand, if West Germany's steel production rose to over 55 million tons per year in the future, particularly since the company has 5.0 million tons less capacity than it had in 1974.

No doubt, long-term contractual agreements would be honored; however, on a short-term or spot basis, it is extremely doubtful that large quantities of coke could be produced from West Germany in the event that steel production in Western Europe undergoes continuing improvement. The other coke producers in West Germany are much smaller than Ruhrkohle and, consequently, because of their size and commitments, would probably not be significant suppliers to the United States in the event of a steel recovery. EBV is controlled by Arbed and supplies a large part of its needs. Thus, it seems the only possibility to obtain large quantities of coke from West Germany would be on the basis of long-term contracts with the largest producers.

OTHER OVERSEAS COKE SUPPLIERS

In addition to West Germany, as Table 14 indicates, there were five other countries that exported more than 200,000 tons to the United States in 1978. There were significant amounts; however, by comparison with the West German tonnage, they were small. The two largest exporters were the Netherlands with 335,000 tons and Japan with 286,000. The Netherlands tonnage was in part a trans-shipment from other countries in Western Europe, since the two production sources; viz., Hoogovens Ljmuiden BV and NSM, a producer in Southern Holland, would not have been able to ship 335,000 tons to the United States. Hoogovens was short of coke in 1978, and NSM does not have enough capacity to ship 335,000 tons to the United States. Consequently, the coke had to come through the Netherlands from another country. The amount which could originate in the Netherlands is considerably short of 335,000 tons, perhaps less than 100,000 tons.

The Japanese, on the other hand, have a tremendous coke production capability, both in their steel industry and outside of the industry. The two companies producing coke outside the steel industry are: Mitsubishi and Mitsui Koza. Mitsui Koza has one plant located near the Yawata Works and directs its 2.8 million tons of capacity principally to the Yawata Works of Nippon Steel. With the recent recession, shipments to Nippon have been cut back, and coke has been available for sale.

Mitsubishi Chemical has a capacity to produce 5.8 million tons of coke located in three plants. The largest is the Sakaide Works located on the seacoast near Osaka. This has a capacity to produce 3.9 million tons per year and because of its location can readily ship coke by water to any of the Japanese blast furnace operations. Its second plant, Kurosahi Works, has a capacity for 1.7 million tons and is located near the Yawata Steel Works of Nippon. However, this serves the Kokura Works of Sumitomo. This plant has blast furnaces but no coke ovens. The third plant, Onahama, is a small operation with 600,000 tons of capacity. In December of 1978, Kawasaki Steel made a contract to ship 50,000 tons of its coke to the United States, and Nippon Kokan contracted to ship over 100,000 tons. Both of these contracts were to be fulfilled in 1979.

The Mitsubishi Chemical Company, although it has a large capacity, has approximately 80 percent committed to integrated steel plants in Japan, and much of the remainder is shipped to foundries and other industries.

If the Japanese steel industry increases its rate of operations from the current 70 percent to 85 percent or 90 percent, it is extremely doubtful that any coke would be available to American steel producers on a spot or short-term basis. Japan was not a significant supplier to the U.S. market until 1978. As indicated by the import statistics already presented, its shipments in the three prior years averaged about 10,000 tons per year; before that there was no coke from Japan.

Among the other significant suppliers, Italy has three coke producers that are independent of the steel industry. These three operations, Fornecoke, Betrocoke, and Cokitalia, have relatively small capacities ranging from 500,000 to 1.1 million tons. Their usual market is the Mediterranean area, including North Africa and Southern Europe.

In the United Kingdom, in addition to British Steel Corporation, the National Coal Board has a considerable capacity to produce coke. It operates 12 coke-oven plants; four of these are exclusively on blast-furnace coke, three on foundry coke, and one on domestic and industrial coke. The other four produce combinations of furnace, foundry, and domestic and industrial coke. Because of the combinations, it is difficult to assess capacity in furnace coke versus foundry coke. A good estimate would put the furnace coke capability at 2.3 million tons, with foundry coke at 600,000 tons, and domestic and industrial coke at 700,000 tons.

Capacity for furnace coke will remain stable through 1981, while foundry coke declines and domestic and industrial coke is phased out. From 1982 to 1985, there will be a gradual drop in furnace coke capacity to 1.8 million tons. In 1986, it will drop drastically to 1.1 million tons. Foundry coke capacity is projected at 525,000 tons from 1981 to 1989.

Currently, the British Steel Corporation purchases almost 1.0 million tons of blast-furnace coke from the National Coal Board. Another one of its principal markets is Scandinavia, and in the past, tonnages have been shipped to the United States, but on a fluctuating basis. For example, in 1978, as the import table indicates, 235,000 tons were shipped. However, in the first six months of 1979, there are no recorded shipments from the United Kingdom.

The projected decline of capacity in the United Kingdom by 1986 goes a long way to ruling it out as a long-run source of coke supply of any significant tonnage for the American market.

France has been a limited source of supply in the last three years; however, in the first six months of 1979, it has increased its exports to the United States to a figure above that for the entire year of 1978.

It is doubtful whether any of the foregoing countries could supply coke to the United States in the case of a recovery in steel-industry demand within their borders. Thus, one is forced to conclude that in a period of high activity for the world steel industry, the United States cannot depend on sizable imports of coke from any country, with the possible exception of West Germany.●

SOVIET FORGERIES AND SALT

● Mr. HUMPHREY. Mr. President, as the Nation considers SALT II, it is only natural that as part of the process we try to fathom Soviet sincerity. There certainly can be no argument over the charge that in the past, the Russians have often resorted to deception and deceit in their dealings with the Western nations. Therefore, it is fitting we not rely exclusively on Soviet words, but examine their actions, as well.

In this context, Mr. President, Members may be disturbed by two unclassified U.S. Government publications which focus on a long history of forgeries of U.S. documents by the Soviet Union.

Since World War II, the Soviets have forged between 100 and 200 U.S. documents, including diplomatic cables, military manuals, and letters and speeches by American officials. If the Soviets have been involved in forgeries for many years, why should these activities merit our attention today? For two reasons, Mr. President.

First, the incidence of Soviet forgeries is on the increase. Between 1957 and 1965, there were 50 cases of significant Soviet forgeries of American documents. Between 1965 and 1972, Soviet activity declined slightly. At the height of the spirit of détente, between the years 1972 and 1976, there were no significant Soviet forgeries detected. However, since then there have been as many as half a dozen significant forgeries per year. Clearly, the Soviets are up to their old tricks again.

Second, Mr. President, the Soviets have for the first time begun to forge documents related to the offices of President and Vice President of the United States. Evidently, no longer worried about disrupting détente and perhaps convinced the United States is a helpless giant, the Soviet forgers have begun operating in an entirely new league.

I shall submit for the RECORD, Mr. President, excerpts from two U.S. official publications which dwell on the matter I have raised today. In addition, I wish to include two examples of Soviet forgeries. The first forgery is a speech purportedly delivered by President Carter on the subject of NATO's southern flank. The second is purported to be an interview with Vice President WALTER MONDALE. These Soviet forgeries were designed to spread misinformation about the United States. The forged Carter speech was intended to create discord between the

United States and our Greek allies in NATO. The forged MONDALE interview was intended to insult both Israel and Egypt and to disrupt the rapprochement between those nations.

These forged documents, Mr. President, are significant because they represent the very first attempts by the Russians to involve the offices of the American Vice President and President in Soviet campaigns of misinformation.

Mr. President, our Government has strong evidence that these forgeries are products of the Soviet KGB, and that they were deliberately authorized by the Soviet Politburo. President Brezhnev almost certainly was aware of and approved of the forgeries. In any case, they were authorized by Soviet officials at the highest levels.

I am informed, Mr. President, that the United States has never formally protested the Soviet campaign of forgery. No doubt our timidity and forbearance stem from our wish not to disturb the mood of détente.

Mr. President, despite our decade-long self-delusion about the motives of the Russians, the ugly facts of Soviet deception and deceit are coming clearly into focus in such a way that not even the most optimistic and gullible Pollyanna among us can ignore them. The brutal and unprincipled Communist regime which rules the Soviet Union is out to undermine the Western Alliance and to extend Communist hegemony and indeed, conquest just as far as the inattention and self-delusion of the West will permit.

Clearly, Mr. President, deceitful Soviet deeds do not match the soothing words of peace and thrust which flow from Moscow. As we prepare to pass judgment on SALT II, Mr. President, let us go beyond the words of the treaty. Let us make a careful evaluation of Soviet intentions. Let us give sober thought to past Communist perfidy. Examination of Soviet deeds leads to the conclusion that Soviet words can be as misleading and phony as the forged U.S. documents turned out by the KGB.

The material follows:

[American Perspective, United States Information Service, Athens, September 29, 1977]

PRESIDENT CARTER ON NATO'S SOUTHERN FLANK

(Official text)

(NOTE: This is a Soviet forgery.)

After the signing of the base agreement between the United States and Greece, President Carter commented on several additional problems concerning this area:

The U.S. administration has undertaken a number of steps in order to justly and successfully resolve issues between allies on the southern flank of NATO, and to strengthen the alliance against the danger threatening the Free World in the face of the steadily increasing attempts of Warsaw Pact countries to attain military superiority over the West.

Both parties concerned—Greece and Turkey—must realize that it is their duty to whole-heartedly support these afforts of the United States since resolving this issue is their own concern as well.

The agreement on U.S. bases in Greece signed early in August must be viewed as the first step Greece had to take in an effort to improve its relations to the West. A further step, and the earlier taken the better, must be Greece's full return to NATO and making ensuing provisions. I disagree with statements of some prominent Greek politicians indicating that the accord with the U.S. does not mean Greece's rapprochement with NATO. Quite the contrary. For Greece, in much the same way as for the U.S., the interests of the NATO alliance must be the first and foremost consideration.

I would like to point out that NATO members have the obligation to fulfill their political and military commitments connected with NATO operations, not only in case of a direct communist aggression but also at the time of peace. This also pertains to Greece, which plays a specific role in the defense plans of the alliance, and such commitments are mandatory even for the Greek government.

During the recent NATO Council meeting in May, the necessity for increased efficiency and modernization of the NATO alliance were considered. The overwhelming majority of NATO members comprehended this necessity and agreed to increase their financial appropriations for this program. In this connection it is essential to emphasize that, in certain instances and if the situation demands the potential weakening of the alliance, the U.S. and other NATO countries are entitled to require from all members to fulfill their commitments even if they may not seem to be consonant with the program of the government concerned, and this applies to all countries without exception, including Greece.

We are aware that in recent years the policy of the United States and NATO has become the target of unwarranted criticism by several Greek political leaders, and certain walks of the population including the younger generation. I want to re-emphasize that this criticism is unwarranted and stems from purely individual and nationalist viewpoints. The Greek government as well as the Greek people should realize that the policy of the United States, based upon the moral principles of the Free World, will never harm the intrests of its faithful allies. This policy must, however, be uncompromisingly-principal and ensure the protection of the interests of the Free World even at the cost of sacrifices and risks involved. If Greece desires to continue to enjoy the advantages and protection of the United States, it must be prepared to make these sacrifices.

I would like to point out that last July, 3 years had elasped since the beginning of a period of Greece's abnormal relations to its western allies and to our country. We and our allies have exhibited much patience in an effort to allow these problems to resolve themselves. For reasons of ensuring mutual security, to continue to wait however, is no longer feasible. It is necessary to be decisive, and I personally believe that at the very earliest the Greek government will take such measures which are our mutual interest.

During my meeting with the Greek Premier in London, I received with deep satisfaction Mr. Caramanlis' assurances that he would do his utmost to resolve the disputes between Greece and Turkey in accordance with the interests of the alliance and the U.S. This would enhance prospects for increased efficiency in the defense of NATO's southern flank, and a firm wall of defense of the Free World would be erected in this area.

[Office of the Press attaché, American Embassy, 2, Avenue Gabriel, Paris, ANJ. 74–00 July 11, 1978]

VICE PRESIDENT MONDALE TALKS TO KARL DOUGLAS: EXCERPTS

(NOTE: This is a Soviet forgery.)

DOUGLAS. Mr. Vice President, first of all I want to thank you on behalf of my newspapers' readers for agreeing to see me . . .

MONDALE. Not at all, everyone here knows my door is open to all comers. I have time until 4 o'clock.

Q. Then I'll come right to the point. Mr. Vice President, what is your opinion about the trend in American-Soviet relations and the present status of the SALT talks? When may we expect a SALT agreement?

A. I guess you couldn't have found a more difficult question to lead off with, but I will sum up my opinion briefly on this composite question which has such vital importance for the whole world. American-Soviet relationships have deteriorated, in fact declined, during recent months. Soviet and Cuban activities in Africa, the strengthening of the aggressive potential of the Warsaw Pact forces and the stalling of the SALT discussions have created serious tensions in relations between the two countries.

Q. A few months ago it seemed—and President Carter affirmed this several times in public—only certain unimportant points needed to be cleared up before signing the SALT II agreement.

A. Yes, more than once it looked as if all serious *hurdles* had been cleared and it was a matter of days or weeks and SALT II would be signed, yet nothing happened. At the last minute the Soviet Union either made another political move or came up with a new proposal which prevented the signing of the SALT II agreement we all are so anxious to see concluded.

Q. What political moves do you have in mind?

A. Measures of both domestic and foreign policy. Take the activities of the Soviet Union and Cuba in Shaba, or the political trials going on in the Soviet Union, not to speak of the Soviets presenting proposal after proposal while they steadily expand their arsenal of nuclear and conventional weaponry. For example there is the SS–20 ballistics missile which substantially increased the Soviet threat to military and civilian targets. I mention this merely to illustrate one of the many things which conflict with our goals. We are committed to the further reduction of nuclear weapons, to the stricter limitation of updating and new delivery systems, but we cannot do it alone. If the SALT II talks are to be successful the Soviet Union must display the same commitment.

Q. From what you say, you believe the events in Africa are also having a broad negative impact on the SALT II talks . . . ?

A. Yes that is very true. In our opinion the reduction of tensions must not be confined to one or two continents. Not only Europe, but Africa also wants to benefit from reduced tensions, and this is understandable. Present Soviet policy in Africa has nothing in common with this noble goal. When can we expect a SALT II agreement? It is very difficult to give an unequivocal answer at this moment because so much could happen in the interim. In all events one thing is sure, we will not conclude an agreement at any price, we will wait patiently until the Soviet Union comes up with a proposal acceptable to us. Fully aware of the present status of the discussions, I would close the question by saying I have no hopes for a quick solution. I am confident though we will be able to wrap up a SALT II agreement if not in the near future then in the distant future.

Q. I believe that and so do our readers. For long years now the Middle East has contained the danger of confrontation between the United States and the Soviet Union. What do you think on this score now, especially after visiting Israel and Egypt?

A. I think it is going too far to take such a gloomy and pessimistic view of the question since basically the Middle East problem must be solved by the countries directly involved, first of all by Israel and Egypt, and not by us and the Soviet Union. A big step forward was made toward settling the Mid-

dle East problem when Sadat recognized he holds one of the keys to it and began discussions with Israel.

Unfortunately, Sadat stopped short on the way to achieving this goal. We are continuing our efforts to get the talks moving again between Israel and Egypt, but to tell the truth—as was emphasized by the talks with Begin and Sadat—I do not consider either Begin or Sadat suitable for the task, especially because as everyone knows Begin has a terminal illness, and all Sadat's energy is pinned down by his domestic worries, and he probably won't be able to stand up long in the face of his internal opposition. So there is good reason to expect shifts in personalities in the two countries involved. Should changes of this nature occur, we would welcome at the head of both countries experienced and unbiased politicians able to pursue a realistic policy and willing to mutually and peacefully settle their differences. This would clear the way for the peaceful settlement of the Middle East problem as a whole.

Q. By realistic politicians whom do you have in mind?

A. You've got me there because at the moment it would be hard to mention a concrete name. Now how should I put it . . . in Egypt maybe it could mean a man like Fahmi.

Q. You mentioned that basically it was not up to the United States to solve the Middle East problem. By that do you imply that the United States should play the role of a passive onlooker?

A. Not at all, I didn't say that. As is clearly apparent, we also have military, political and economic interests in the area so any ideas we have for a settlement will take the interests of the oil producing countries and Israel into consideration.

Q. Therefore, two opposite poles, or to be more precise oil and Israel or the Israeli lobby, play a large part in the United States plan for settlement?

A. That's exactly it.

Q. And to what extent is the process of settlement helped or hindered by America shipping arms to both sides?

A. As to hindering, it does not hinder by any means; in fact I may say it helps, because our reason for sending weapons to both sides is to create a balance in the region which will assure a firm peace.

Q. Asia has traditionally had an important role in U.S. foreign policy in the past. Is that still true today?

A. Yes, of course. Asia continues to play an important part in our foreign policy. I am thinking first of all of Japan and China, but I would not want to give the impression I am belittling the importance of the other countries of Asia to our policy in Asia. We are committed to guaranteeing that this much suffered region will become a symbol of the policy of peaceful coexistence. That is why we are making serious efforts to settle our relationships with Vietnam either this year or early next year. We must, of course, rely basically on Japan and China in achieving our policy in Asia. One major task in this region is to prevent the Soviet Union from starting local wars to build up their influence, like they are doing in Africa. As a matter of fact, that is the guarantee of peace in Asia. China's leaders are of the same opinion and it is no accident we were able to find a common tone. We have common interests in several areas and will have to coordinate many aspects of our policy in the future.

Q. Western Europe is contending with a rise in terrorism. What are your thoughts on terrorism?

A. Yes, the spread of terrorism throughout Western Europe is a serious challenge to its governments. But I have confidence in international cooperation, I feel it is a barrier to this new wave of terrorism.

Q. Many people believe these acts of terrorism are backed by certain intelligence agencies, including the CIA.

A. Rubbish, sheer nonsense. After all, what interest could any country have in its intelligence agency undertaking a risk of that kind. Intelligence agencies do not exist to get some degenerates to kidnap and murder prominent officials.

The Forgery Offensive

Discussion

Background

(Note: The following are excerpts from two U.S. official publications analyzing Soviet forgeries.)

An appreciable upsurge of anti-American forgeries has become apparent during the last 24 months. The political purpose of these forgeries, their technical sophistication and intelligence reporting on certain personalities associated with their circulation, all point to the USSR, its various East European allies, and Cuba as being the responsible parties. These forgeries have been surfacing in widely scattered areas of the world—the Western Hemisphere, the Middle East, East Asia and Africa. The Middle East has thus far been the principal target area for recent suspected Soviet forgeries of U.S. documents, with six separate operations having been mounted against, Egypt and specifically President Sadat, between December 1976 and July 1978. Recently, however, Western Europe appears to be emerging as the prime disinformation target area as the Soviets mount various efforts to keep Spain out of NATO, to limit Greece's role in the alliance, to pressure the U.S. into abandoning the Neutron Bomb and to generally frustrate American foreign policy objectives.

Nor do the Soviets and their allies appear to have any significant competitors at present in the art of peddling distorted reality and plausible mistruths using forged documents as the basic vehicle. The Peoples Republic of China is not known to engage in the use of documentary forgeries and the various militant Arab countries—alone or in combination with Fatah or any of the hardline Palestinian splinter groups—simply do not possess the technical sophistication to produce the quality of forgery being encountered. Indeed, the forged travel documentation being used by Palestinian extremists is generally of such low quality that only lack of information about what actual documents look like or sheer inattention on the part of passport examiners accounts for their frequently successful use.

For the Soviets, employment of forged documents is a basic tool in the implementation of foreign policy. Such deception serves the purpose of raising doubts in the minds of those at whom the forgery is aimed, making them more receptive to Soviet policies and points of view. Over the years, a steady stream of such forgeries has been produced by Soviet-controlled sources in East Germany and Czechoslovakia but until recently most were unprofessional and quickly identified. However, a dozen or so such forgeries produced in the last two years, despite certain shortcomings, have been expert enough to be accepted at face value in target countries, resulting in confusion and some damage to U.S. interests.

The Soviet methodology in the production of forged documents tends to follow certain patterns and relies on techniques which have succeeded in the past. As a result, Soviet forgeries tend to be somewhat stereotyped. The typical Soviet document usually involves a cover alleged to have been written by an anonymous citizen acting out of righteous indignation or concern for the truth. Such typed or handwritten letters are usually unsigned or merely initialed and include editorial remarks which moralize over the principal allegations that the accompanying forgery is designed to impart. The covering letter accompanying the forgery is most often delivered by mail or placed in some conspicuous location where the recipient is certain to find it. The forged document itself is almost invariably a xerox or photocopy produced so as to give a legible but somewhat blurred or indistinct appearance in order to make technical analysis as difficult as possible. Soviet forgeries usually contain frequent errors in the use of English language idiom, spelling and document format. The adverse affect of such shortcomings, however, is minimized when the documents is surfaced by a left-wing or Communist-oriented publication that lacks the will or the means to properly authenticate it.

Most forgeries contain enough errors so that their bogus nature can ultimately be demonstrated after detailed analysis. However, documenting the identity of the nation perpetrating the forgery invariably is much more difficult. It is often possible to show that a given forgery is designed to manipulate public opinion in a fashion which could only benefit the Soviets or their allies. The intended impact of a forgery may even be so consistent with ongoing overt Soviet propaganda efforts as to be almost transparently obvious but, nonetheless, such comparisons do not yield incontrovertible proof. For this reason, like old soldiers, good forgeries also never die; they simply surface again and again in different parts of the world, frequently doing as much or more damage during their various reincarnations as was done originally. This holds true even of those forgeries whose fraudulent nature has been clearly demonstrated and publicized in the country where first surfaced.

The Denholm Example

The so-called Denholm forgeries are a case in point and demonstrate the way in which an old forgery lives on and on. In September 1966, a half-tone photograph of a forged Department of the Army Short Range Intelligence Needs (DASRIAN) Form bearing the forged signature of COL Charles J. Denholm appeared in two Beirut newspapers. The forgery alleged CIA attempts to recruit GEN Mohammed Oufkir, then Director General of the Moroccan National Security Organization. In November 1970, another variant of the Denholm forgery surfaced when a half-tone photograph of a forged U.S. Army Assistant Chief of Staff for Intelligence letter dated 1959 appeared in Haolam Hazeh, a leftwing weekly in Tel Aviv, Israel. The forgery bore the bogus signature of COL Denholm and alleged CIA and British MI–6 attempts to recruit Moshe Dayan. Then, early in 1978 the Denholm forgeries were resurrected and surfaced in the English press. This most recent use of the forged documents was still effective and damaging despite the fact that the forgeries contained a number of inaccuracies, involved poor simulation of the handwriting of COL Denholm, and had been publicly identified by COL Ladislav Bittmann, former Deputy Chief of Czech Disinformation, as the work of Czech intelligence.

Airgram A–8950 Forgery

Soviet intentions to damage U.S. relations with NATO and SEATO powers would appear to have been manifest in three forgeries which surfaced in Europe during 1976–1978. The first of these involved an altered version of a genuine State Department document, Airgram A–8950, dated 3 December 1974. Whereas the original A–8950 was simply a statement of economic, financial and commercial information requirements worldwide for fiscal year 1975, in the altered version, recipients were instructed to collect information on ways to bribe European officials and to develop other covert means by which to damage or eliminate foreign trade competition. The forgery evidently sought to exploit

the damage already done to the U.S. image following revelations concerning bribery practices by U.S. businesses abroad. The covering letter to which the altered airgram was attached reinforced the disinformation message by specifically directing the reader's attention to the ostensible CIA-State Department instructions to engage in espionage primarily against U.S. allies in NATO. On 7 Nov 76, the London Sunday Times picked up the allegations but identified them as being based on a forgery. Subsequently, the Soviet news agency TASS reported the Times article but omitted any mention of the bogus nature of the airgram, thus extracting additional mileage from the deception.

DISCUSSION

BACKGROUND

In December 1978, DIA published Counterintelligence Memorandum (CIM) 2-78, Perspectives in Counterintelligence: The Forgery Offensive (U) to heighten DOD community awareness of the increased incidence of forgeries thought to be emanating from Soviet-controlled sources. The purpose of the CIM was to alert DOD recipients of the need for caution and circumspection when responding to public queries concerning newly surfaced documents containing information apparently inimicable to U.S. interests. Additionally, the CIM advised its readers to inform the DIA Counterintelligence Division (RSS-1) immediately when suspect materials surface in foreign press accounts or in document form.

SOVIET METHODOLOGY

The Soviet Union has continually employed forged documents to implement foreign policy, support political objectives, and to lend substance, credibility, and authenticity to their propaganda claims. Although such forged documents frequently contain errors in fact and format which make them easy to identify for what they are, some have been accepted at face value by unsuspecting government officials and the foreign press readership. This results in increased tensions, instability, and confusion, particularly in the Third World.

Soviet forgery technique seems to follow fairly well established patterns. The appearance of a forgery in one area—whether successful or not—usually presages its use elsewhere in the near term. Whenever such appearances capture a receptive public, the Soviet intelligence services follow up by initiating a wide propaganda effort to enhance their impact and gain maximum possible replay in the public press of nearby countries. This orchestrated effort frequently employs the communication apparatus of various communist states together with Soviet media assets and agents of influence as part of a well developed broadly based-effort.

Consequently, it is essential that the U.S. Intelligence Community identify suspected Soviet forgeries as soon as possible. Then they may be subjected to technical analysis and their fraudulent nature exposed. In addition, DOD representatives must avoid damaging comments when questioned about suspect documents—such as the bogus FM 30-31B described in CIM 2-78—to avoid giving the appearance of authenticity in what later proves to be an absolute forgery. In order to keep the DOD community fully apprised concerning the most recent suspected Soviet forgeries involving purported DOD documents, CIM 2-78 and this study have been prepared.

THE DIA COLLECTION REQUIREMENT FORGERY

This forgery surfaced in early 1978 when intelligence reporting indicated that the leftist Greek language newspaper To Vima in Athens was in possession of a copy of what purported to be an American intelligence collection requirement. Titled "Anti-U.S. Activities and their Sponsors in Western Europe (U)," it appeared on DD Form 1365 with attachments. Since To Vima was the same newspaper that originally printed portions of a compromised DIA document which was not a forgery but had fallen into the hands of the newspaper through an alleged leak in Washington, the placement of the forgery with To Vima was particularly opportune and subtle.

Elits forgery number two

Three months later, the signature of Ambassador Elits was again forged, this time to a bogus "TOP SECRET" U.S. State Department "operations memorandum" attacking President Sadat for his lack of leadership, foresight and political acuity. The final paragraph of the forgery included a statement that the CIA Station Chief in Cairo shared the Ambassador's assessment of Sadat. Ten Egyptian newspapers and magazines received photocopies of the forgery by mail. There was no covering letter but the language and style of the document suggested that its writer was not a native American. The thrust and political impact of both this and the preceding Elits forgery certainly suggested Soviet implication.

The Tehran dispatch

In August 1977, a forged dispatch from the American Embassy in Tehran arrived by mail at the Egyptian Embassy in Belgrade together with a covering letter. The photocopied forgery suggested that Iran and Saudi Arabia were plotting the overthrow of Sadat with the U.S. Government looking on from a noncommittal stance. The forwarding letter went ever further, warning of a rather implausible Israeli/Saudi/Iranian master plan to overthrow Sadat and of American schemes to install conservative governments throughout the Middle East. In addition to its rather wild allegations, the forgery suffered from numerous mistakes in format, spelling, titles and language usage.

Mondale forgery

In July 1978, xerox copies of a forged American Embassy press release describing a bogus interview between Vice President Mondale and a fictitious personality called "Karl Douglas" were mailed to Paris-based correspondents of various newspapers and news services. The phony interview quoted Mondale as saying that he did not consider either Begin or Sadat suitable for the task of conducting negotiations at Camp David, that "everyone knows" that Begin was suffering from a "terminal illness" and that Sadat was not master of his own political house. However, from a technical standpoint the forgery left much to be desired, containing as it did misspellings, typographical errors and grammatical constructions unlikely to be used by the Vice President or any other educated American.●

● Mr. GARN. Mr. President, information has recently come to my attention that has a bearing on the conduct of the policy of the United States. It involves the increasing level of political warfare and "dirty tricks" that is being waged against the United States by the Soviet Union.

The Soviet program of political warfare and covert action is waged very effectively by the Soviet KGB, which has over 10 times the manpower of the U.S. CIA. The Soviets organized major international campaigns against the United States and our interests, directed at the highest level of the Soviet Government—the Politburo.

The forgery of Western documents is an old technique of the Soviet secret police. However, for the first time the Soviet Union is engaged in a systematic campaign of forging statements by U.S. officials up to and including statements made by the Vice President and President of the United States. Even at the height of the cold war period the Soviets had never done this.

The Soviet campaign of political forgery has accelerated significantly since 1977. In addition to the forgery of Presidential documents they have forged a document purporting to be a letter from the Secretary General of NATO as part of their campaign to stop the neutron bomb. Their forgery of a speech by President Carter was intended to disrupt U.S. relations with Greece, and their forgery of a press release by the U.S. Embassy in Paris, containing what was supposedly an interview with Vice President MONDALE, was aimed at disrupting the Middle East peace talks.

The problem of Soviet forgery of American documents is getting increasingly severe. The technical quality of the forgeries is dramatically improving. The number of forgeries per year is increasing. They are causing severe diplomatic problems for the United States, and the U.S. Government is doing absolutely nothing about this. Apparently, high officials of the National Security Council staff are concerned that U.S. governmental exposure of this insidious Soviet practice would reduce the chances for the ratification of SALT II by the U.S. Senate. That certainly should be no basis for failing to expose these propaganda tactics of the Soviet Union.

The Senator from New Hampshire (Mr. HUMPHREY) has placed in the RECORD copies of some of the forged documents I have referred to. I encourage my colleagues to review this material and become aware of these efforts of the Soviets to misrepresent the official position of the United States.●

REORGANIZATION OF THE ROCK ISLAND AND MILWAUKEE RAILROADS

● Mr. CULVER. Mr. President, this has been a year of crisis and confusion for Midwestern railroads. The Rock Island Railroad—Iowa's second-largest carrier—is currently under a directed service order, and the Milwaukee Railroad—our third-largest carrier—has resumed operation only after the enactment of emergency legislation earlier this month.

Our No. 1 transportation priority must be to assure the reestablishment of permanent, efficient service along the essential lines of these two carriers as quickly as possible. Last month, the Interstate Commerce Commission held a series of hearings in Iowa and throughout the Midwest on the future of directed service for the Rock Island Railroad. In testimony submitted at these hearings, I urged the ICC to extend directed service for the maximum 240-day period and expedite its procedures so that, in the event of the liquidation, resale or reorganization of the line, permanent service can be reinstituted as quickly as possible.

I am pleased that the emergency railroad legislation enacted by Congress does contain provisions to assure the rapid reorganization of the Rock Island and Milwaukee Railroads. Iowa's agricultural and manufacturing economy is vitally dependent on a safe, sound railroad system. and we must devote our immediate attention to assuring that the essential

lines of the Rock Island and the Milwaukee are maintained and that innovative, long-term solutions to the larger railroad crisis be developed now.

Mr. President, I ask that my testimony before the Interstate Commerce Commission be printed in the RECORD.

The testimony follows:

STATEMENT OF SENATOR JOHN CULVER

I want to commend the Commission for the series of hearings it is holding in the Quad Cities, and elsewhere in Iowa and the Midwest, on the future of directed service for the Rock Island Railroad. This service is critically important to the manufacturing and the agricultural economies of our state and nation. The individuals who will testify this morning will give the Commission valuable information concerning the adequacy of the directed service to date, suggestions on how service can be improved, and the identity of important segments of the Rock Island which warrant the continuation of directed service for the maximum 240-day period. I urge the Commission to weigh their views carefully and give them the fullest possible consideration.

It is unnecessary to recount the recent history of the Rock Island in great detail. Its economic condition has created a "vicious circle" of deferred maintenance, poor rail service, greater operating losses, lower revenues and unmet payrolls, which, in turn, result in even more inadequate rail service. The losers in this downward spiral are the farmers, shippers, employees and consumers who rely on the Rock Island. The Rock's economic condition has also exacerbated the already serious disruptions in the Midwest transportation system. This system has already been shaken by a long-standing boxcar shortage, inadequate grain storage facilities, and the prospective collapse of the Milwaukee Railroad. Given these conditions, the Commission's decision to order directed service for the Rock Island was necessary and inevitable.

The initial directed service order mandated operation of all of Iowa's major grain routes, including the north-south route through Mason City and Des Moines to Kansas City, and the east-west route through the Quad Cities, Iowa City, Newton, Des Moines and Council Bluffs. These routes—and all other major routes currently being operated along the Rock Island's 1700 miles of Iowa track—should be continued for the full 240-day directed service period.

In addition to maintaining service for the maximum eight months, however, the Commission must give serious thought to the Midwestern railroad picture after the 240 days expire. Directed service is, of course, only an interim measure or bridge to span the period until efficient, responsible, permanent service can be provided to those who currently depend on the Rock Island.

Whether the Rock Island is reduced to a smaller, Iowa-centered "core" system, or purchased by other carriers, it is essential that the Commission expedite its procedures and timetables so that permanent service can be re-established as quickly as possible. The people of Iowa and the Midwest cannot afford the luxury of a protracted, interminable sale or reorganization of the Rock Island. The 240-day directed service period must be used to plan and, in so far as it is possible, implement permanent service along the essential lines of the current Rock Island system. Such service must be efficient, competitive, and able to meet the needs of farmers, manufacturers and shippers who have for too long coped with uncertain and unreliable service.

At the same time, it is important that adequate protection is created for Rock Island employees whose jobs and seniority are threatened.

It is certainly good news that Rock Island management and unions recently reached voluntary settlement on contract terms in the event the Rock Island resumes independent operation. But more may be needed.

Legislation currently pending before Congress specifies certain benefits—including supplemental unemployment, retraining, and relocation expenses—that would help get personnel back to work in the event of the liquidation of the Milwaukee Railroad. Similar benefits should be available to employees of the Rock Island Railroad, both as a matter of equity and fairness, and in order to minimize complications which might delay the resale or reorganization of the system.

Finally, we must, in the long run, make a commitment to revitalize the railroads; to repair track; to build improved and efficient switching yards; and to purchase more and better equipment. Rebuilding our railroad system will be a difficult and expensive task, but it is essential. Government and the private sector must work together to assure a sound and vital midwestern transportation system.●

THE PROPOSED SENATE RULES CHANGES—TRIBUTE TO DR. FLOYD M. RIDDICK

● Mr. McCLURE. Mr. President, in 1976, the Senate charged the Rules Committee to revise and modernize the Rules of the Senate without making substantive changes and to incorporate in them related provisions scattered throughout the United States Code. The intricate task was completed this year, and the resolution was voted out of the Rules Committee earlier this month.

The Senate will shortly consider Senate Resolution 274. But I do not want to wait until it comes to the floor to extend my congratulations to Dr. Floyd M. Riddick, the parliamentary genius behind the drafting of the measure.

Senators have benefited from Dr. Riddick's procedural knowledge since he first joined the Senate staff over 30 years ago, and it is a source of great pleasure to me that, although he has retired from the position of Parliamentarian he executed with such skill for decades, his expertise is still available to Members of the Senate. I cannot think of anyone who could have carried out so well the task of integrating the many provisions relating to the Senate which are now scattered through unrelated documents. It was a project requiring both consummate expertise and unfailing attention to detail, and Dr. Riddick has accomplished it superbly.

I support the final product enthusiastically, and I hope all other Senators will similarly endorse it. Reform was badly needed to bring coherence to the mishmash of regulations affecting Senate procedure. The new draft of the rules makes no substantive changes; it represents instead a compilation of the rules which is far clearer than anything the Senate has had since the 19th century. This will facilitate the assimilation of the rules by incoming Senators, and quite possibly lead to renewed use of provisions and rediscovery of individual rights which may have been overlooked because of the lack of a single reference source.

I hope that the Senate, after adopting this very necessary resolution, will carry the matter one step further. There are two elements which determine floor procedure; one is certainly the rules themselves, and the other, equally important component, is the precedents. Just as the rules were badly in need of recodification at the time such a project was begun in 1976, the lack of any official codification whatsoever of precedents creates a vacuum frequently leading to uncertainty. I hope that the Rules Committee, which so insightfully identified the need for rules reform, will also recognize the need for codification of precedents and take appropriate steps.

I urge all Senators to support Senate Resolution 274 when it is considered on the floor. It represents constructive, useful reform, and will enhance the operations of this body.●

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection. If not, without objection it is so ordered.

ORDER FOR REDUCTION OF TIME ALLOCATED TO LEADERS UNDER THE STANDING ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if the distinguished minority leader agrees with it, that the time of the two leaders or their designees be limited to 5 minutes each on tomorrow.

Mr. BAKER. Mr. President, I am agreeable to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

ORDER FOR RECOGNITION OF SENATOR PRYOR ON TOMORROW AND TO RESUME CONSIDERATION OF S. 1724

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognition of the leaders on tomorrow, Mr. PRYOR be recognized for not to exceed 15 minutes, after which the Senate then resume consideration of the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. MATSUNAGA. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to and, at 6:16 p.m., the Senate recessed until tomorrow, November 14, 1979, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 13, 1979:

DEPARTMENT OF TRANSPORTATION

Theodore Compton Lutz, of Virginia, to be Urban Mass Transportation Administrator, vice Richard Stephen Page, resigned.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Iraline Green Barnes, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years, vice W. Byron Sorrell, retired.

HOUSE OF REPRESENTATIVES—*Tuesday, November 13, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let not your hearts be troubled, neither let them be afraid.—John 15: 27b.

Gracious Lord, out of the depths of our hearts we call upon You to hear our prayers and support us with Your spirit. By ourselves we are fearful and realize our limitations. Yet, O Lord, You can calm our anxiety and apprehension and give us assurance for the future. Where we are fainthearted, give us Your strength, and where we are troubled, remind us of Your eternal promise that You are with us and will sustain us, now and evermore, even to the ends of the world. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 68. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 4955. An act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3354) entitled "An act to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 239) entitled "An act to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1037) entitled "An act to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1319) entitled "An act to authorize certain construction at military installations, and for other purposes."

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5359. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5359) entitled "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. MAGNUSON, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. BAYH, Mr. YOUNG, Mr. STEVENS, Mr. SCHWEIKER, Mr. BELLMON, Mr. WEICKER, and Mr. GARN to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4930) entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes," and that the Senate agree to the House amendments to the Senate amendments numbered 1, 3, 17, 24, 30, 37, 38, 40, 48, 49, 50, 51, 52, 53, 56, 58, 59, 67, 74, 91, 94, 107, 108, and 109 to the foregoing bill.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 916. An act to amend the Act of September 30, 1950 (Public Law 874, 81st Congress) to provide education programs for Native Hawaiians, and for other purposes.

AMERICA CANNOT BE BLACKMAILED WITH OIL

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, the President has done the right thing in discontinuing the purchase of any Iranian oil. This action should make it clear to Iran and every other country that the United States will not be blackmailed because of our dependence upon their oil. This should help erase from their minds any image of the United States as a helpless oil junkie who can be humiliated because of that addiction.

Perhaps now they will begin to understand that we value American blood far more than we value their oil—and that even more than that we value our self-respect. They will fully understand this of course when we have finished doing the things we have begun to make this Nation energy independent once more.

The Congress has an excellent record so far this year on energy initiatives. I include at this point in the RECORD a current status report on major energy legislation.

ENERGY LEGISLATION—STATUS OF MAJOR PENDING PROPOSALS

Windfall Profits Tax.—The House passed a nearly 60 percent windfall profits tax on newly decontrolled oil in June and is awaiting full Senate action on the legislation.

Home Energy Assistance.—The House adopted an urgent, separate supplemental appropriation of $1.35 billion for fiscal 1980 for low-income energy assistance to be channeled to the needy by both the federal and state governments. This money would be added to $250 million previously appropriated for this purpose. The Senate has approved $1.2 billion for such assistance in its version of the Interior Appropriations bill. The matter is now in conference.

Synthetic Fuels.—The House has approved both authorizing legislation and a $1.5 billion appropriation for synthetic fuels development in the Interior Appropriations bill. The